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international

THE SECOND INTERNATIONAL PEACE CONFERENCE

HELD AT THE HAGUE
FROM JUNE 15 TO OCTOBER 18, 1907

INSTRUCTIONS TO AND REPORT FROM
DELEGATES OF THE UNITED STATES,
CONVENTIONS AND DECLARATIONS,
FINAL ACT, WITH DRAFT OF CONVEN-
TION RELATIVE TO THE CREATION OF
A JUDICIAL ARBITRATION COURT, AND
SIGNATURES TO THE CONVENTIONS



PRESENTED BY MR. CULLOM

April 21, 1908.—Injunction of secrecy removed and ordered to be printed

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THE HAGUE CONFERENCE OF 1907.

INSTRUCTIONS TO THE DELEGATES OF THE UNITED STATES TO THE SECOND INTERNATIONAL PEACE CONFERENCE, HELD AT THE HAGUE FROM JUNE 15 TO OCTOBER 18, 1907.

FEBRUARY 27, 1908.—Referred to the Committee on Foreign Relations and ordered
to be printed in confidence for the use of the Senate.

INSTRUCTIONS TO THE AMERICAN DELEGATES TO THE HAGUE CONFERENCE, 1907.

DEPARTMENT OF STATE,
Washington, May 31, 1907.

*To Messrs. Joseph H. Choate, Horace Porter, Uriah M. Rose, David
Jayne Hill, George B. Davis, Charles S. Sperry, and William I.
Buchanan.*

GENTLEMEN: You have been appointed delegates plenipotentiary
to represent the United States at a Second Peace Conference which
is to meet at The Hague on the 15th of June, 1907.

The need of such a conference was suggested to the Powers signa-
tory to the acts of The Hague Conference of 1899 by President
Roosevelt in a circular note by my predecessor, Mr. Hay, dated
October 21, 1904, and the project met with a general expression of
assent and sympathy from the Powers; but its realization was post-
poned because of the then existing war between Japan and Russia.
The conclusion of the peace which ended that war presenting a
favorable moment for further developing and systematizing the
work of the First Conference, the initiative was appropriately trans-
ferred to His Imperial Majesty the Emperor of Russia as initiator
of the First Conference. The Russian Government proposed that
the programme of the contemplated meeting should include the
following topics:

1. Improvements to be made in the provisions of the convention relative to the peaceful settlement of international disputes as regards the Court of Arbitration and the international commissions of inquiry.

2. Additions to be made to the provisions of the Convention of 1899 relative to the laws and customs of war on land—among others, those concerning the opening of hostilities, the rights of neutrals on land, etc. Declarations of 1899. One of these having expired, question of its being revived.

3. Framing of a convention relative to the laws and customs of maritime warfare, concerning—

The special operations of maritime warfare, such as the bombardment of ports, cities, and villages by a naval force; the laying of torpedoes, etc.

The transformation of merchant vessels into war ships.

The private property of belligerents at sea.

The length of time to be granted to merchant ships for their departure from ports of neutrals or of the enemy after the opening of hostilities.

The rights and duties of neutrals at sea; among others, the questions of contraband, the rules applicable to belligerent vessels in neutral ports; destruction, in cases of *vis major*, of neutral merchant vessels captured as prizes.

In the said convention to be drafted, there would be introduced the provisions relative to war on land that would be also applicable to maritime warfare.

4. Additions to be made to the Convention of 1899 for the adaptation to maritime warfare of the principles of the Geneva Convention of 1864.

We are advised by the ambassador of Russia, in a note dated March 22/April 4, 1907, that all of the Powers have declared their adhesion to this tentative programme. The following remarks, however, have been made in respect thereof:

The Government of the United States has reserved to itself the liberty of submitting to the Conference two additional questions, viz, the reduction or limitation of armaments and the attainment of an agreement to observe some limitations upon the use of force for the collection of ordinary public debts arising out of contracts.

The Spanish Government has expressed a desire to discuss the limitation of armaments.

The British Government has given notice that it attaches great importance to having the question of expenditures for armament discussed at the Conference, and has reserved to itself the right of raising it.

The Governments of Bolivia, Denmark, Greece, and the Netherlands have reserved to themselves, in a general way, the right to submit to the consideration of the Conference subjects not specially enumerated in the programme.

Several Governments have reserved the right to take no part in any discussion which may appear unlikely to produce any useful result.

The Russian note proposing the programme declared that the deliberations of the contemplated meetings should not deal with the political relations of the different States, or the condition of things established by treaties; and that neither the solution of the questions brought up for discussion, nor the order of their discussion, nor the form to be given to the decisions reached, should be determined in advance of the Conference. We understand this view to have been accepted.

In regard to the two questions which were not included in the proposed programme, but which the United States has reserved the right to present to the Conference, we understand that notice of the reservation has been communicated to all the Powers by note similar to that from the Russian ambassador dated March 22/April 4, 1907; so that each Power has had full opportunity to instruct its delegates in respect thereof. The United States understands that as to the topics included in the programme the acceptance of the programme involves a determination that such topics shall be considered by the Conference, subject to the reserved rights of particular Powers to refrain from discussion of any topic as to which it deems that discussion will not be useful; but that as to the two topics which we have reserved the right to present, there has been no determination one way or the other; the question whether they shall be considered by the Conference remaining for the determination of the Conference itself in case they shall be presented.

It is not expedient that you should be limited by too rigid instructions upon the various questions which are to be discussed, for such a course, if pursued generally with all the delegates, would make the discussion useless and the Conference a mere formality. You will, however, keep in mind the following observations regarding the general policy of the United States upon these questions:

1. In the discussions upon every question it is important to remember that the object of the Conference is agreement, and not compulsion. If such conferences are to be made occasions for trying to force nations into positions which they consider against their interests, the Powers can not be expected to send representatives to them. It is important also that the agreements reached shall be genuine and not reluctant. Otherwise they will inevitably fail to receive approval when submitted for the ratification of the Powers represented. Comparison of views and frank and considerate explanation and discussion may frequently resolve doubts, obviate difficulties, and lead to real agreement upon matters which at the outset have appeared insurmountable. It is not wise, however, to carry this process to the point of irritation. After reasonable discussion, if no agreement is reached, it is better to lay the subject aside, or refer it to some future conference in the hope that intermediate consideration may dispose of the objections. Upon some questions where an agreement by only a part of the Powers represented would in itself be useful, such an agreement may be made, but it should always be with the most unreserved recognition that the other Powers withhold their concurrence with equal propriety and right.

The immediate results of such a conference must always be limited to a small part of the field which the more sanguine have hoped to see covered; but each successive conference will make the positions reached in the preceding conference its point of departure, and will bring to the consideration of further advances towards international agreement opinions affected by the acceptance and application of the previous agreements. Each conference will inevitably make further progress and, by successive steps, results may be accomplished which have formerly appeared impossible.

You should keep always in mind the promotion of this continuous process through which the progressive development of international justice and peace may be carried on; and you should regard the work of the Second Conference, not merely with reference to the definite results to be reached in that Conference, but also with reference to the foundations which may be laid for further results in future conferences. It may well be that among the most valuable services rendered to civilization by this Second Conference will be found the progress made in matters upon which the delegates reach no definite agreement.

With this view, you will favor the adoption of a resolution by the Conference providing for the holding of further conferences within fixed periods and arranging the machinery by which such conferences may be called and the terms of the programme may be arranged, without awaiting any new and specific initiative on the part of the Powers or any one of them.

Encouragement for such a course is to be found in the successful working of a similar arrangement for international conferences of the American Republics. The Second American Conference, held in

Mexico in 1901-2, adopted a resolution providing that a third conference should meet within five years and committed the time and place and the programme and necessary details to the Department of State and representatives of the American States in Washington. Under this authority the Third Conference was called and held in Rio de Janeiro in the summer of 1906 and accomplished results of substantial value. That Conference adopted the following resolution:

The Governing Board of the International Bureau of American Republics (composed of the same official representatives in Washington) is authorized to designate the place at which the Fourth International Conference shall meet, which meeting shall be within the next five years; to provide for the drafting of the programme and regulations and to take into consideration all other necessary details; and to set another date in case the meeting of the said conference can not take place within the prescribed limit of time.

There is no apparent reason to doubt that a similar arrangement for successive general international conferences of all the civilized Powers would prove as practicable and as useful as in the case of the twenty-one American States.

2. The policy of the United States to avoid entangling alliances and to refrain from any interference or participation in the political affairs of Europe must be kept in mind, and may impose upon you some degree of reserve in respect of some of the questions which are discussed by the Conference.

In the First Conference the American delegates accompanied their vote upon the report of the committee regarding the limitation of armaments by the following declaration:

That the United States, in so doing, does not express any opinion as to the course to be taken by the States of Europe. This declaration is not meant to indicate mere indifference to a difficult problem, because it does not affect the United States immediately, but expresses a determination to refrain from enunciating opinions upon matters into which, as concerning Europe alone, the United States has no claim to enter. The words drawn up by M. Bourgeois, and adopted by the first commission, received also the cordial interest and sympathy with which the United States, while carefully abstaining from anything that might resemble interference, regards all movements that are thought to tend to the welfare of Europe.

Before signing the arbitration convention of the First Conference the delegates of the United States put upon record the following declaration:

Nothing contained in this convention shall be so construed as to require the United States of America to depart from its traditional policy of not intruding upon, interfering with, or entangling itself in the political questions or policy or internal administration of any foreign State; nor shall anything contained in the said convention be construed to imply a relinquishment by the United States of America of its traditional attitude toward purely American questions.

These declarations have received the approval of this Government, and they should be regarded by you as illustrating the caution which you are to exercise in preventing our participation in matters of general and world-wide concern from drawing us into the political affairs of Europe.

3. The attitude of the United States as to consideration of the subject of limiting armaments was stated in a letter from the Secretary of State to the Russian ambassador dated June 7, 1906. That letter, after expressing assent to the enumeration of topics in the Russian programme, proceeded to say:

The Government of the United States is, however, so deeply in sympathy with the noble and humanitarian views which moved His Imperial Majesty to the calling of

the First Peace Conference that it would greatly regret to see those views excluded from the consideration of the Second Conference. [Quoting from the call for the First Conference.]

The truth and value of the sentiments thus expressed are surely independent of the special conditions and obstacles to their realization by which they may be confronted at any particular time. It is true that the First Conference at The Hague did not find it practicable to give them effect, but long-continued and patient effort has always been found necessary to bring mankind into conformity with great ideals. It would be a misfortune if that effort, so happily and magnanimously inaugurated by His Imperial Majesty, were to be abandoned.

This Government is not unmindful of the fact that the people of the United States dwell in comparative security, partly by reason of their isolation and partly because they have never become involved in the numerous questions to which many centuries of close neighborhood have given rise in Europe. They are, therefore, free from the apprehensions of attack which are to so great an extent the cause of great armaments, and it would ill become them to be insistent or forward in a matter so much more vital to the nations of Europe than to them. Nevertheless, it sometimes happens that the very absence of a special interest in a subject enables a nation to make suggestions and urge considerations which a more deeply interested nation might hesitate to present. The Government of the United States, therefore, feels it to be its duty to reserve for itself the liberty to propose to the Second Peace Conference, as one of the subjects of consideration, the reduction or limitation of armaments, in the hope that, if nothing further can be accomplished, some slight advance may be made toward the realization of the lofty conception which actuated the Emperor of Russia in calling the First Conference.

The First Conference adopted the following resolutions:

The Conference is of opinion that the restriction of military charges, which are at present a heavy burden on the world, is extremely desirable for the increase of the material and moral welfare of mankind.

The Conference expresses the wish that the Governments, taking into consideration the proposals made at the Conference, may examine the possibility of an agreement as to the limitation of armed forces by land and sea and of war budgets.

Under these circumstances this Government has been and still is of the opinion that this subject should be regarded as unfinished business, and that the Second Conference should ascertain and give full consideration to the results of such examination as the Governments may have given to the possibility of an agreement pursuant to the wish expressed by the First Conference. We think that there should be a sincere effort to learn whether, by conference and discussion, some practicable formula may not be worked out which would have the effect of limiting or retarding the increase of armaments.

There is, however, reason to believe not only that there has been the examination by the respective Governments for which the First Conference expressed a wish, but that the discussion of its results has been forestalled by a process of direct communication between a majority of the Governments having the greatest immediate interest in the subject. These communications have been going on actively among the different Governments for nearly a year, and as a result at least four of the European Powers have announced their unwillingness to continue the discussion in the Conference. We regret that the discussion should have taken place in this way rather than at the Conference, for we are satisfied that a discussion at the Conference would have afforded a greater probability of progress towards the desired result. The fact, however, can not be ignored.

If any European power proposes consideration of the subject, you will vote in favor of consideration and do everything you properly can to promote it. If, on the other hand, no European power proposes consideration of the subject, and no new and affirmative evidence is

presented to satisfy you that a useful purpose would be subserved by your making such a proposal, you may assume that the limitations above stated by way of guidance to your action preclude you from asking the Conference to consider the subject.

4. The other subject which the United States specifically reserved the right to propose for consideration is the attainment of an agreement to observe some limitation upon the use of force for the collection of ordinary public debts arising out of contract.

It has long been the established policy of the United States not to use its Army and Navy for the collection of ordinary contract debts due to its citizens by other Governments. This Government has not considered the use of force for such a purpose consistent with that respect for the independent sovereignty of other members of the family of nations which is the most important principle of international law and the chief protection of weak nations against the oppression of the strong. It seems to us that the practice is injurious in its general effect upon the relation of nations and upon the welfare of weak and disordered States, whose development ought to be encouraged in the interests of civilization; that it offers frequent temptation to bullying and oppression and to unnecessary and unjustifiable warfare. It is doubtless true that the nonpayment of such debts may be accompanied by such circumstances of fraud and wrongdoing or violation of treaties as to justify the use of force; but we should be glad to see an international consideration of this subject which would discriminate between such cases and the simple non-performance of a contract with a private person, and a resolution in favor of reliance upon peaceful means in cases of the latter class.

The Third International Conference of the American States, held at Rio de Janeiro in August, 1906, resolved:

To recommend to the Governments therein that they consider the point of inviting the Second Peace Conference at The Hague to examine the question of the compulsory collection of public debts, and, in general, means tending to diminish between nations conflicts having a peculiarly pecuniary origin.

You will ask for the consideration of this subject by the Conference. It is not probable that in the first instance all the nations represented at the Conference will be willing to go as far in the establishment of limitations upon the use of force in the collection of this class of debts as the United States would like to have them go, and there may be serious objection to the consideration of the subject as a separate and independent topic. If you find such objections insurmountable, you will urge the adoption of provisions under the head of arbitration looking to the establishment of such limitations. The adoption of some such provision as the following may be suggested, and, if no better solution seems practicable, should be urged:

The use of force for the collection of a contract debt alleged to be due by the Government of any country to a citizen of any other country is not permissible until after—

1. The justice and amount of the debt shall have been determined by arbitration, if demanded by the alleged debtor.

2. The time and manner of payment, and the security, if any, to be given pending payment, shall have been fixed by arbitration, if demanded by the alleged debtor.

5. In the general field of arbitration two lines of advance are clearly indicated. The first is to provide for obligatory arbitration

as broad in scope as now appears to be practicable, and the second is to increase the effectiveness of the system so that nations may more readily have recourse to it voluntarily.

You are familiar with the numerous expressions in favor of the settlement of international disputes by arbitration on the part both of the Congress and of the Executive of the United States.

So many separate treaties of arbitration have been made between individual countries that there is little cause to doubt that the time is now ripe for a decided advance in this direction. This condition, which brings the subject of a general treaty for obligatory arbitration into the field of practical discussion, is undoubtedly largely due to the fact that the Powers generally in the First Hague Conference committed themselves to the principle of the pacific settlement of international questions in the admirable convention for voluntary arbitration then adopted.

The Rio Conference of last summer provided for the arbitration of all pecuniary claims among the American States. This convention has been ratified by the President, with the advice and consent of the Senate.

In December, 1904, and January, 1905, my predecessor, Mr. Hay, concluded separate arbitration treaties between the United States and Great Britain, France, Germany, Spain, Portugal, Italy, Switzerland, Austria-Hungary, Sweden and Norway, and Mexico. On the 11th of February, 1905, the Senate advised and consented to the ratification of these treaties, with an amendment which has had the effect of preventing the exchange of ratifications. The amendment, however, did not relate to the scope or character of the arbitration to which the President had agreed and the Senate consented. You will be justified, therefore, in assuming that a general treaty of arbitration in the terms, or substantially in the terms, of the series of treaties which I have mentioned will meet the approval of the Government of the United States. The first article of each of these treaties was as follows:

Differences which may arise of a legal nature, or relating to the interpretation of treaties existing between the two Contracting Parties, and which it may not have been possible to settle by diplomacy, shall be referred to the Permanent Court of Arbitration established at The Hague by the Convention of the 29th July, 1899, provided, nevertheless, that they do not affect the vital interests, the independence, or the honor of the two Contracting States, and do not concern the interests of third Parties.

To this extent you may go in agreeing to a general treaty of arbitration, and to secure such a treaty you should use your best and most earnest efforts.

Such a general treaty of arbitration necessarily leaves to be determined in each particular case what the questions at issue between the two Governments are, and whether those questions come within the scope of the treaty or within the exceptions, and what shall be the scope of the powers of the arbitrators. The Senate amendment which prevented the ratification of each of these treaties applied only to another article of the treaty which provided for special agreements in regard to these matters and involved only the question who should act for the United States in making such special agreements. To avoid having the same question arise regarding any general treaty

of arbitration which you may sign at The Hague, your signature should be accompanied by an explanation substantially as follows:

In signing the general arbitration treaty the delegates of the United States desire to have it understood that the special agreements provided for in article — of said treaty will be subject to submission to the Senate of the United States.

The method in which arbitration can be made more effective, so that nations may be more ready to have recourse to it voluntarily and to enter into treaties by which they bind themselves to submit to it, is indicated by observation of the weakness of the system now apparent. There can be no doubt that the principal objection to arbitration rests not upon the unwillingness of nations to submit their controversies to impartial arbitration, but upon an apprehension that the arbitrations to which they submit may not be impartial. It has been a very general practice for arbitrators to act, not as judges deciding questions of fact and law upon the record before them under a sense of judicial responsibility, but as negotiators effecting settlements of the questions brought before them in accordance with the traditions and usages and subject to all the considerations and influences which affect diplomatic agents. The two methods are radically different, proceed upon different standards of honorable obligation, and frequently lead to widely differing results. It very frequently happens that a nation which would be very willing to submit its differences to an impartial judicial determination is unwilling to subject them to this kind of diplomatic process. If there could be a tribunal which would pass upon questions between nations with the same impartial and impersonal judgment that the Supreme Court of the United States gives to questions arising between citizens of the different States, or between foreign citizens and the citizens of the United States, there can be no doubt that nations would be much more ready to submit their controversies to its decision than they are now to take the chances of arbitration. It should be your effort to bring about in the Second Conference a development of The Hague Tribunal into a permanent tribunal composed of judges who are judicial officers and nothing else, who are paid adequate salaries, who have no other occupation, and who will devote their entire time to the trial and decision of international causes by judicial methods and under a sense of judicial responsibility. These judges should be so selected from the different countries that the different systems of law and procedure and the principal languages shall be fairly represented. The court should be made of such dignity, consideration, and rank that the best and ablest jurists will accept appointment to it, and that the whole world will have absolute confidence in its judgments.

The arbitration convention signed at The First Hague Conference contained no authority for the adherence of nonsignatory Powers, but provided:

The conditions on which the Powers who were not represented at the International Peace Conference can adhere to the present convention shall form the subject of a separate agreement among the contracting Powers.

This left all the Central and South American States outside of the treaty. The United States has from time to time endeavored to secure an opportunity for them to adhere, and it has now been arranged that this shall be accomplished as a necessary preliminary to their taking part in the Second Conference. The method arranged

is that on the day before the opening of the Conference a protocol shall be signed by the representatives of all the Powers signatory to the treaty substantially as follows:

The representatives at the Second Peace Conference of the States signatories of the Convention of 1899 relative to the peaceful settlement of international disputes, duly authorized to that effect, have agreed that in case the States that were not represented at the First Peace Conference, but have been convoked to the present Conference, should notify the Government of the Netherlands of their adhesion to the above-mentioned convention they shall be forthwith considered as having acceded thereto.

It is understood that substantially all the Central and South American States have notified the Government of the Netherlands of their adherence to the convention, and upon the signing of this protocol their notices will immediately take effect and they will become parties competent to take part in the discussions of the Second Conference looking towards the amendment and extension of the arbitration convention. You will sign the protocol in behalf of the United States pursuant to the full powers already given you.

6. You will maintain the traditional policy of the United States regarding the immunity of private property of belligerents at sea.

On the 28th of April, 1904, the Congress of the United States adopted the following resolution:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled. That it is the sense of the Congress of the United States that it is desirable, in the interest of uniformity of action by the maritime states of the world in time of war, that the President endeavor to bring about an understanding among the principal maritime powers with a view of incorporating into the permanent law of civilized nations, the principle of the exemption of all private property at sea, not contraband of war, from capture or destruction by belligerents. Approved April 28, 1904.

This resolution is an expression of the view taken by the United States during its entire history. Such a provision was incorporated in the Treaty of 1775 with Prussia, signed by Benjamin Franklin, Thomas Jefferson, and John Adams, and it was proposed by the United States as an amendment to be added to the privateering clause of the Declaration of Paris in 1856. The refusal of the other Powers to accompany prohibition of privateering by such a provision caused the Government of the United States to refuse its adherence to the declaration.

The Congressional resolution was in response to the recommendation of President Roosevelt's message to Congress in December, 1903, quoting and enforcing a previous message by President McKinley in December, 1898, which said:

The United States Government has for many years advocated this humane and beneficent principle, and is now in a position to recommend it to other Powers without the imputation of selfish motives.

Whatever may be the apparent specific interest of this or any other country at the moment, the principle thus declared is of such permanent and universal importance that no balancing of the chances of probable loss or gain in the immediate future on the part of any nation should be permitted to outweigh the considerations of common benefit to civilization which call for the adoption of such an agreement.

In the First Peace Conference the subject of the immunity of private property at sea was not included in the programme. Consideration of it was urged by the delegates of the United States and was sup-

ported by an able presentation on the part of Mr. Andrew D. White. The representatives of several of the great Powers declared, however, that in the absence of instructions from their Governments they could not vote upon the subject; and, under the circumstances, we must consider that gratifying progress was made when there was included in the final act of the Conference a resolution expressing—

The wish that the proposal which contemplates the declaration of the inviolability of private property in naval warfare may be referred to a subsequent conference for consideration.

The subject has accordingly been included in the present programme and the way is open for its consideration.

It will be appropriate for you to advocate the proposition formulated and presented by the American delegates to the First Conference, as follows:

The private property of all citizens or subjects of the signatory Powers, with the exception of contraband of war, shall be exempt from capture or seizure on the high seas, or elsewhere by the armed vessels or by the military forces of any of the said signatory Powers. But nothing herein contained shall extend exemption from seizure to vessels and their cargoes which may attempt to enter a port blockaded by the naval forces of any of the said Powers.

7. Since the code of rules for the government of military operations on land was adopted by the First Peace Conference there have been occasions for its application under very severe conditions, notably in the South African war and the war between Japan and Russia. Doubtless the Powers involved in those conflicts have had occasion to observe many particulars in which useful additions or improvements might be made. You will consider their suggestions with a view to reducing, so far as is practicable, the evils of war and protecting the rights of neutrals.

As to the framing of a convention relative to the customs of maritime warfare, you are referred to the naval war code promulgated in General Orders 551 of the Navy Department of June 27, 1900, which has met with general commendation by naval authorities throughout the civilized world, and which, in general, expresses the views of the United States, subject to a few specific amendments suggested in the volume of international-law discussions of the Naval War College of the year 1903, pages 91 to 97. The order putting this code into force was revoked by the Navy Department in 1904, not because of any change of views as to the rules which it contained, but because many of those rules, being imposed upon the forces of the United States by the order, would have put our naval forces at a disadvantage as against the forces of other Powers, upon whom the rules were not binding. The whole discussion of these rules contained in the volume to which I have referred is commended to your careful study.

You will urge upon the Peace Conference the formulation of international rules for war at sea and will offer the naval war code of 1900, with the suggested changes and such further changes as may be made necessary by other agreements reached at the Conference, as a tentative formulation of the rules which should be considered.

8. The clause of the programme relating to the rights and duties of neutrals is of very great importance and in itself would furnish matter for useful discussion sufficient to occupy the time and justify the labors of the Conference.

The various subjects which the Conference may be called upon to consider are likely to bring out proposals which should be considered in their relation to each other, as standing in the following order of substantial importance:

- (1) Provisions tending to prevent disagreements between nations.
- (2) Provisions tending to dispose of disagreements without war.
- (3) Provisions tending to preserve the rights and interests of neutrals.
- (4) Provisions tending to mitigate the evils of war to belligerents.

The relative importance of these classes of provisions should always be kept in mind. No rules should be adopted for the purpose of mitigating the evils of war to belligerents which will tend strongly to destroy the rights of neutrals, and no rules should be adopted regarding the rights of neutrals which will tend strongly to bring about war. It is of the highest importance that not only the rights but the duties of neutrals shall be most clearly and distinctly defined and understood, not only because the evils which belligerent nations bring upon themselves ought not to be allowed to spread to their peaceful neighbors and inflict unnecessary injury upon the rest of mankind, but because misunderstandings regarding the rights and duties of neutrals constantly tend to involve them in controversy with one or the other belligerent.

For both of these reasons, special consideration should be given to an agreement upon what shall be deemed to constitute contraband of war. There has been a recent tendency to extend widely the list of articles to be treated as contraband; and it is probable that if the belligerents themselves are to determine at the beginning of a war what shall be contraband, this tendency will continue until the list of contraband is made to include a large proportion of all the articles which are the subject of commerce, upon the ground that they will be useful to the enemy. When this result is reached, especially if the doctrine of continuous voyages is applied at the same time, the doctrine that free ships make free goods and the doctrine that blockades in order to be binding must be effective, as well as any rule giving immunity to the property of belligerents at sea, will be deprived of a large part of their effect, and we shall find ourselves going backward instead of forward in the effort to prevent every war from becoming universally disastrous. The exception of contraband of war in the Declaration of Paris will be so expanded as to very largely destroy the effect of the declaration. On the other hand, resistance to this tendency toward the expansion of the list of contraband ought not to be left to the neutrals affected by it at the very moment when war exists, because that is the process by which neutrals become themselves involved in war. You should do all in your power to bring about an agreement upon what is to constitute contraband; and it is very desirable that the list should be limited as narrowly as possible.

With these instructions there will be furnished to you copies of the diplomatic correspondence relating to the Conference, the instructions to the delegates to the First Conference which are in all respects reaffirmed and their report, the international law discussions of the Naval War College of 1903, the report of the American delegates to the Conference of the American Republics at Rio de Janeiro in 1906, and

the report of the American delegates to the Geneva Conference of 1906 for the revision of the Red Cross Convention of 1864.

Following the precedent established by the commission to the First Conference, all your reports and communications to this Government will be made to the Department of State for proper consideration and eventual preservation in the archives. The records of your commission will be kept by your secretary, Mr. Chandler Hale. Should you be in doubt at any time regarding the meaning or effect of these instructions, or should you consider at any time that there is occasion for special instructions, you will communicate freely with the Department of State by telegraph. It is the President's earnest wish that you may contribute materially to the effective work of the Conference and that its deliberations may result in making international justice more certain and international peace more secure.

I am, gentlemen, your obedient servant,

ELIHU ROOT.

INSTRUCTIONS TO THE INTERNATIONAL (PEACE) CONFERENCE AT THE HAGUE, 1899.

Mr. Hay to Hon. Andrew D. White, Hon. Seth Low, Hon. Stanford Newel, Capt. Alfred T. Mahan, U. S. N., Capt. William Crozier, U. S. A., Delegates on the part of the President of the United States.

DEPARTMENT OF STATE,
Washington, April, 18, 1899.

GENTLEMEN: You have been appointed by the President to constitute a commission to represent him at an international conference called by His Imperial Majesty the Emperor of Russia to meet at The Hague, at a time to be indicated by the Government of the Netherlands, for the purpose of discussing the most efficacious means of assuring to all peoples the "benefits of a real and durable peace."

Upon your arrival at The Hague you will effect an organization of your commission, whose records will be kept by your secretary, Hon. Frederick W. Holls. All reports and communications will be made through this Department, according to its customary forms, for preservation in the archives.

The programme of topics suggested by the Russian minister of foreign affairs for discussion at the Conference in his circular of December 30, 1898, is as follows:

1. An understanding stipulating the nonaugmentation, for a term to be agreed upon, of the present effective armed land and sea forces, as well as the war budgets pertaining to them; preliminary study of the ways in which even a reduction of the aforesaid effectives and budgets could be realized in the future.
2. Interdiction of the employment in armies and fleets of new firearms of every description and of new explosives, as well as powder more powerful than the kinds used at present, both for guns and cannons.
3. Limitation of the use in field fighting of explosives of a formidable power, such as now in use, and prohibition of the discharge of any kind of projectiles or explosives from balloons or by similar means.
4. Prohibition of the use in naval battles of submarine or diving torpedo boats, or of other engines of destruction of the same nature; agreement not to construct in the future war ships armed with rams.
5. Adaptation to naval war of the stipulation of the Geneva Convention of 1864, on the base of the additional articles of 1868.
6. Neutralization, for the same reason, of boats or launches employed in the rescue of the shipwrecked during or after naval battles.

7. Revision of the declaration concerning the laws and customs of war elaborated in 1874 by the Conference of Brussels, and not yet ratified.

8. Acceptance, in principle, of the use of good offices, mediation, and voluntary arbitration, in cases where they are available, with the purpose of preventing armed conflicts between nations; understanding in relation to their mode of application and establishment of a uniform practice in employing them.

It is understood that all questions concerning the political relations of States and the order of things established by treaties, as in general all the questions which shall not be included directly in the programme adopted by the cabinets, should be absolutely excluded from the deliberations of the Conference.

The first article, relating to the nonaugmentation and future reduction of effective land and sea forces, is, at present, so inapplicable to the United States that it is deemed advisable for the delegates to leave the initiative upon this subject to the representatives of those Powers to which it may properly belong. In comparison with the effective forces, both military and naval, of other nations, those of the United States are at present so far below the normal quota that the question of limitation could not be profitably discussed.

The second, third, and fourth articles, relating to the nonemployment of firearms, explosives, and other destructive agents, the restricted use of existing instruments of destruction, and the prohibition of certain contrivances employed in naval warfare, seem lacking in practicability, and the discussion of these propositions would probably prove provocative of divergence rather than unanimity of views. It is doubtful if wars are to be diminished by rendering them less destructive, for it is the plain lesson of history that the periods of peace have been longer protracted as the cost and destructiveness of war have increased. The expediency of restraining the inventive genius of our people in the direction of devising means of defense is by no means clear, and, considering the temptations to which men and nations may be exposed in a time of conflict, it is doubtful if an international agreement to this end would prove effective. The dissent of a single powerful nation might render it altogether nugatory. The delegates are, therefore, enjoined not to give the weight of their influence to the promotion of projects the realization of which is so uncertain.

The fifth, sixth, and seventh articles, aiming in the interest of humanity to succor those who by the chance of battle have been rendered helpless, thus losing the character of effective combatants, or to alleviate their sufferings, or to insure the safety of those whose mission is purely one of peace and beneficence, may well awake the cordial interest of the delegates, and any practicable propositions based upon them should receive their earnest support.

The eighth article, which proposes the wider extension of good offices, mediation, and arbitration, seems likely to open the most fruitful field for discussion and future action. "The prevention of armed conflicts by pacific means," to use the words of Count Mouravieff's circular of December 30, is a purpose well worthy of a great international convention, and its realization in an age of general enlightenment should not be impossible. The duty of sovereign States to promote international justice by all wise and effective means is only secondary to the fundamental necessity of pre-

serving their own existence. Next in importance to their independence is the great fact of their interdependence. Nothing can secure for human government and for the authority of law which it represents so deep a respect and so firm a loyalty as the spectacle of sovereign and independent States, whose duty it is to prescribe the rules of justice and impose penalties upon the lawless, bowing with reverence before the august supremacy of those principles of right which give to law its eternal foundation.

The proposed Conference promises to offer an opportunity thus far unequalled in the history of the world for initiating a series of negotiations that may lead to important practical results. The long-continued and widespread interest among the people of the United States in the establishment of an international court, as evidenced in the historical résumé attached to these instructions as Annex A, gives assurance that the proposal of a definite plan of procedure by this Government for the accomplishment of this end would express the desires and aspirations of this nation. The delegates are, therefore, enjoined to propose, at an opportune moment, the plan for an international tribunal, hereunto attached as Annex B, and to use their influence in the Conference in the most effective manner possible to procure the adoption of its substance or of resolutions directed to the same purpose. It is believed that the disposition and aims of the United States in relation to the other sovereign Powers could not be expressed more truly or opportunely than by an effort of the delegates of this Government to concentrate the attention of the world upon a definite plan for the promotion of international justice.

Since the Conference has its chief reason of existence in the heavy burdens and cruel waste of war, which nowhere affect innocent private persons more severely or unjustly than in the damage done to peaceable trade and commerce, especially at sea, the question of exempting private property from destruction or capture on the high seas would seem to be a timely one for consideration.

As the United States has for many years advocated the exemption of all private property not contraband of war from hostile treatment, you are authorized to propose to the Conference the principle of extending to strictly private property at sea the immunity from destruction or capture by belligerent Powers which such property already enjoys on land as worthy of being incorporated in the permanent law of civilized nations.

I am, etc.,

JOHN HAY.

ANNEX A.

HISTORICAL RÉSUMÉ.

From time to time in the history of the United States, propositions have been made for the establishment of a system of peaceable adjustment of differences arising between nations. As early as February, 1832, the senate of Massachusetts adopted, by a vote of 19 to 5, a resolution expressing the opinion that "some mode should be established for the amicable and final adjustment of all international disputes instead of resorting to war."

A similar resolution was unanimously passed by the house of representatives of the same State in 1837, and by the senate by a vote of 35 to 5.

A little prior to 1840 there was much popular agitation regarding the convocation of a congress of nations for the purpose of establishing an international tribunal. This idea was commended by resolutions adopted by the legislature of Massachusetts in 1844, and by the legislature of Vermont in 1852.

In February, 1851, Mr. Foote, from the Committee on Foreign Relations, reported to the Senate of the United States a resolution that "in the judgment of this body it would be proper and desirable for the Government of these United States whenever practicable to secure in its treaties with other nations a provision for referring to the decision of umpires all future misunderstandings that can not be satisfactorily adjusted by amicable negotiation in the first instance, before a resort to hostilities shall be had."

Two years later Senator Underwood, from the same committee, reported a resolution of advice to the President suggesting a stipulation in all treaties hereafter entered into with other nations referring the adjustment of any misunderstanding or controversy to the decision of disinterested and impartial arbitrators to be mutually chosen.

May 31, 1872, Mr. Sumner introduced into the Senate a resolution in which, after reviewing the historical development of municipal law and the gradual suppression of private war, and citing the progressive action of the Congress of Paris with regard to neutrals, he proposed the establishment of a tribunal to be clothed with such authority as to make it a "complete substitute for war," declaring a refusal to abide by its judgment hostile to civilization, to the end that "war may cease to be regarded as a proper form of trial between nations."

In 1874 a resolution favoring general arbitration was passed by the House of Representatives.

April 1, 1883, a confidential inquiry was addressed to Mr. Frelinghuysen, Secretary of State, by Colonel Frey, then Swiss minister to the United States, regarding the possibility of concluding a general treaty of arbitration between the two countries. Mr. Frelinghuysen, citing the general policy of this country in past years, expressed his disposition to consider the proposition with favor. September 5, 1883, Colonel Frey submitted a draft of a treaty, the reception of which was acknowledged by Mr. Frelinghuysen on the 26th of the same month. This draft, adopted by the Swiss Federal Council July 24, 1883, presented a short plan of arbitration. These negotiations were referred to in the President's Annual Message for 1883, but were not concluded.

In 1888, a communication having been made to the President and Congress of the United States by two hundred and thirty-five members of the British Parliament, urging the conclusion of a treaty of arbitration between the United States and Great Britain, and reinforced by petitions and memorials from multitudes of individuals and associations from Maine to California, great enthusiasm was exhibited in its reception by eminent citizens of New York. As a result of this movement on June 13, 1888, Mr. Sherman, from the Committee on Foreign Relations, reported to the Senate a joint Resolution requesting the President "to invite, from time to time, as fit occasions may arise, negotiations with any government with which the United States has or may have diplomatic relations, to

the end that the differences or disputes arising between the two governments which can not be adjusted by diplomatic agency may be referred to arbitration, and be peaceably adjusted by such means."

November 29, 1881, Mr. Blaine, Secretary of State, invited the Governments of the American Nations to participate in a Congress to be held in the city of Washington, November 24, 1882, "for the purpose of considering and discussing the methods of preventing war between the nations of America." For special reasons the enterprise was temporarily abandoned, but was afterwards revived and enlarged in Congress, and an act was passed authorizing the calling of the International American Conference, which assembled in Washington in the autumn of 1889. On April 18, 1890, referring to this plan of arbitration, Mr. Blaine said:

If, in this closing hour, the Conference had but one deed to celebrate, we should dare call the world's attention to the deliberate, confident, solemn dedication of two great continents to peace, and to the prosperity which has peace for its foundation. We hold up this new *Magna Charta*, which abolishes war and substitutes arbitration between the American Republics, as the first and great fruit of the "International American Conference."

The Senate of the United States on February 14, 1890, and the House of Representatives on April 3, 1890, adopted a concurrent resolution in the language reported by Mr. Sherman to the Senate in June, 1888.

July 8, 1895, the French Chamber of Deputies unanimously resolved:

The Chamber invites the Government to negotiate as soon as possible a permanent treaty of arbitration between the French Republic and the Republic of the United States of America.

July 16, 1893, the British House of Commons adopted the following resolution:

Resolved, That this House has learnt with satisfaction that both Houses of the United States Congress have, by resolution, requested the President to invite from time to time, as fit occasions may arise, negotiations with any government with which the United States have or may have diplomatic relations, to the end that any differences or disputes arising between the two governments which can not be adjusted by diplomatic agency may be referred to arbitration and peaceably adjusted by such means; and that this House, cordially sympathizing with the purpose in view, expresses the hope that Her Majesty's Government will lend their ready cooperation to the Government of the United States upon the basis of the foregoing resolution.

December 4, 1893, President Cleveland referred to the foregoing resolution of the British House of Commons as follows:

It affords me signal pleasure to lay this parliamentary resolution before the Congress and to express my sincere gratification that the sentiment of two great and kindred nations is thus authoritatively manifested in favor of the rational and peaceable settlement of international quarrels by honorable resort to arbitration.

These resolutions led to the exchange of communications regarding the conclusion of a permanent treaty of arbitration, suspended from the spring of 1895 to March 5, 1898, when negotiations were resumed which resulted in the signature of a treaty January 11, 1897, between the United States and Great Britain.

In his inaugural address, March 4, 1897, President McKinley said:

Arbitration is the true method of settlement of international as well as local or individual differences. It was recognized as the best means of adjustment of differences between employers and employees by the Forty-ninth Congress in 1886, and its application was extended to our diplomatic relations by the unanimous concurrence

of the Senate and House of the Fifty-first Congress in 1890. The latter resolution was accepted as the basis of negotiations with us by the British House of Commons in 1893, and upon our invitation a treaty of arbitration between the United States and Great Britain was signed at Washington and transmitted to the Senate for ratification in January last.

Since this treaty is clearly the result of our own initiative, since it has been recognized as the leading feature of our foreign policy throughout our entire national history—the adjustment of difficulties by judicial methods rather than force of arms—and since it presents to the world the glorious example of reason and peace, not passion and war, controlling the relations between two of the greatest nations of the world, an example certain to be followed by others, I respectfully urge the early action of the Senate thereon, not merely as a matter of policy, but as a duty to mankind. The importance and moral influence of the ratification of such a treaty can hardly be overestimated in the cause of advancing civilization. It may well engage the best thought of the statesmen and people of every country, and I can not but consider it fortunate that it was reserved to the United States to have the leadership in so grand a work.

The Senate of the United States declined to concur in the ratification of the Treaty of Arbitration with Great Britain, but for reasons which might not affect a general treaty directed toward a similar end.

The publication by this Government of the exhaustive "History and Digest of the International Arbitrations to which the United States has been a Party," by the Hon. John Bassett Moore, late Assistant Secretary of State, a work extending through six volumes, marks a new epoch in the history of arbitration. It places beyond controversy the applicability of judicial methods to a large variety of international disagreements which have been successfully adjudicated by individual arbitrators or temporary boards of arbitration chosen by the litigants for each case. It also furnishes an exceedingly valuable body of rules of organization and procedure for the guidance of future tribunals of a similar nature. But, perhaps, its highest significance is the demonstration of the superiority of a permanent tribunal over merely special and temporary boards of arbitration, with respect to economy of time and money as well as uniformity of method and procedure.

A history of the various plans for the realization of international justice shows the gradual evolution of clearer and less objectionable conceptions upon this subject. Those of Bluntschli, Lorimer, David Dudley Field, and Leone Levi have been long before the public, each containing useful suggestions, but impracticable as a whole. Certain rules for the regulation of the procedure of international tribunals of arbitration were discussed by the Institute of International Law at its sessions at Geneva in 1874, and at The Hague in 1875, and provisional rules were finally approved. Another set of rules was proposed by a select committee of lawyers at the Universal Peace Congress, held in Chicago in 1893. Resolutions of a somewhat elaborate nature were adopted by the Interparliamentary Conference, composed of British and French members of Parliament, at Brussels in 1895. In April, 1896, the Bar Association of the State of New York, at a special meeting held at Albany, adopted a plan for the establishment of a permanent international tribunal. The almost continuous movement of thought in this direction since 1832 has been interrupted only by the late Spanish-American war.

A careful review of all the plans for an international tribunal that have thus far been proposed makes it evident that they have failed from two causes: (1) Too great elaboration and complication, involving too many debatable questions; and (2) the absence of an

opportune occasion for proposing them to an authoritative international body.

The plan that is to prove successful, if a sufficient number of sovereign States be disposed to adopt any plan whatsoever for an international tribunal, must combine an adequate grasp of the conditions with an extreme simplicity, leaving much to the cooperation of others and the development of the future.

The introduction of a brief resolution at an opportune moment in the proposed Peace Conference would at least place the United States on record as the friend and promoter of peace. The resolution hereto appended is intended to embody in the briefest and simplest manner the most useful suggestions of all the plans proposed.

ANNEX B

PLAN FOR AN INTERNATIONAL TRIBUNAL.

Resolved, That in order to aid in the prevention of armed conflicts by pacific means, the representatives of the Sovereign Powers assembled together in this Conference be, and hereby are, requested to propose to their respective Governments a series of negotiations for the adoption of a general treaty having for its object the following plan, with such modifications as may be essential to secure the adhesion of at least nine Sovereign Powers.

1. The Tribunal shall be composed of judges chosen on account of their personal integrity and learning in international law by a majority of the members of the highest court now existing in each of the adhering States, one from each sovereign State participating in the treaty, and shall hold office until their successors are appointed by the same body.

2. The Tribunal shall meet for organization at a time and place to be agreed upon by the several Governments, but not later than six months after the general treaty shall be ratified by nine Powers, and shall organize itself by the appointment of a permanent clerk and such other officers as may be found necessary, but without conferring any distinction upon its own members. The Tribunal shall be empowered to fix its place of sessions and to change the same from time to time as the interests of justice or the convenience of the litigants may seem to require, and fix its own rules of procedure.

3. The contracting nations will mutually agree to submit to the International Tribunal all questions of disagreement between them, excepting such as may relate to or involve their political independence or territorial integrity. Questions of disagreement, with the aforesaid exceptions, arising between an adherent State and a non-adhering State, or between two sovereign States not adherent to the treaty, may, with the consent of both parties in dispute, be submitted to the International Tribunal for adjudication, upon the condition expressed in article 6.

4. The Tribunal shall be of a permanent character and shall be always open for the filing of cases and counter cases, either by the contracting nations or by others that may choose to submit them, and all cases and counter cases, with the testimony and arguments

by which they are to be supported or answered, are to be in writing. All cases, counter cases, evidence, arguments, and opinions expressing judgment are to be accessible, after a decision is rendered, to all who desire to pay the necessary charges for transcription.

5. A bench of judges for each particular case shall consist of not less than three nor more than seven, as may be deemed expedient, appointed by the unanimous consent of the Tribunal, and not to include a member who is either a native, subject, or citizen of the State whose interests are in litigation in that case.

6. The general expenses of the Tribunal are to be divided equally between the adherent Powers, but those arising from each particular case shall be provided for as may be directed by the Tribunal. The presentation of a case wherein one or both of the parties may be a nonadherent State shall be admitted only upon condition of a mutual agreement that the State against which judgment may be found shall pay, in addition to the judgment, a sum to be fixed by the Tribunal for the expenses of the adjudication.

7. Every litigant before the International Tribunal shall have the right to make an appeal for reexamination of a case within three months after notification of the decision, upon presentation of evidence that the judgment contains a substantial error of fact or law.

8. This treaty shall become operative when nine sovereign States, whereof at least six shall have taken part in the Conference of The Hague, shall have ratified its provisions.

**REPORT OF THE DELEGATES OF THE UNITED STATES TO THE
SECOND INTERNATIONAL PEACE CONFERENCE HELD AT THE
HAGUE FROM JUNE 15 TO OCTOBER 18, 1907.**

Hon. ELIHU ROOT,
Secretary of State.

SIR: Pursuant to a request of the Interparliamentary Union, held at St. Louis in 1904, that a future peace conference be held and that the President of the United States invite all nations to send representatives to such a conference, the late Secretary of State, at the direction of the President, instructed, on October 21, 1904, the representatives of the United States accredited to each of the signatories to the acts of the The Hague Conference of 1899 to present overtures for a second conference to the ministers for foreign affairs of the respective countries.

The replies received to this circular instruction of October 21, 1904, indicated that the proposition for the calling of a second conference met with general favor. At a later period it was intimated by Russia that the initiator of the First Conference was, owing to the restoration of peace in the Orient, disposed to undertake the calling of a new conference to continue as well as to supplement the work of the first. The offer of the Czar to take steps requisite to convene a second international peace conference was gladly welcomed by the President, and the Final Act of the Conference only recites in its preamble the invitation of the President.

The Russian Government thus assumed the calling of the Conference, and on April 12, 1906, submitted the following programme, which was acceptable to the Powers generally and which served as the basis of the work of the Conference:

1. Improvements to be made in the provisions of the convention relative to the peaceful settlement of international disputes as regards the Court of Arbitration and the international commissions of inquiry.

2. Additions to be made to the provisions of the convention of 1899 relative to the laws and customs of war on land—among others, those concerning the opening of hostilities, the rights of neutrals on land, etc. Declaration of 1899. One of these having expired, question of its being revived.

3. Framing of a convention relative to the laws and customs of maritime warfare, concerning—

The special operations of maritime warfare, such as the bombardment of ports, cities, and villages by a naval force; the laying of torpedoes, etc.

The transformation of merchant vessels into war ships.

The private property of belligerents at sea.

The length of time to be granted to merchant ships for their departure from ports of neutrals or of the enemy after the opening of hostilities.

The rights and duties of neutrals at sea, among others the questions of contraband, the rules applicable to belligerent vessels in neutral ports; destruction, in cases of *vis major*, of neutral merchant vessels captured as prizes.

In the said convention to be drafted there would be introduced the provisions relative to war on land that would be also applicable to maritime warfare.

4. Additions to be made to the convention of 1899 for the adaptation to maritime warfare of the principles of the Geneva Convention of 1864.

The United States, however, reserved the right to bring to discussion two matters of great importance not included in the programme, namely, the reduction or limitation of armaments and restrictions or limitations upon the use of force for the collection of ordinary public debts arising out of contracts.

It was finally decided that the Conference should meet at The Hague on the 15th day of June, 1907, and thus the Conference, proposed by the President of the United States, and convoked by Her Majesty the Queen of The Netherlands upon the invitation of the Emperor of All the Russias, assumed definite shape and form.

It will be recalled that the First Peace Conference, although international, was not universal, for only a fraction of the Powers recognizing and applying international law in their mutual relations were invited to The Hague. The fact that the uninvited might adhere to the conventions was foreseen by the Conference itself, and the conventions concerning the laws and customs of land warfare and the adaptation to maritime warfare of the principles of the Geneva Convention of the 22d of August, 1864, provided that nonsignatory Powers by adhering became admitted to the privileges as well as bound by the liabilities of the various conventions. The convention for the peaceful adjustment of international difficulties (art. 60) suggested eventual adherence of such countries, but made this conditioned upon an understanding to be reached by the contracting Powers.

In the circulars of October 21 and December 16, 1904, it was suggested as desirable to consider and adopt a procedure by which States nonsignatory to the original acts of The Hague Conference may become adhering parties. This suggestion was taken note of by the Russian Government and invitations were issued to forty-seven countries, in response to which the representatives of forty-four nations assembled at The Hague and took part in the Conference. No opposition was made to the admission of the nonsignatory States to the benefits of the convention of 1899 for the peaceful adjustment of international difficulties, and on the 14th day of June, 1907, the signatories of the First Conference formally consented under their hands and seals to the adhesion of the nonsignatory States invited to the Second Conference.

The delegation of the United States to the Conference was composed of the following members:

Commissioners plenipotentiary with the rank of ambassador extraordinary:

Joseph H. Choate, of New York.

Horace Porter, of New York.

Uriah M. Rose, of Arkansas.

Commissioner plenipotentiary:

David Jayne Hill, of New York, envoy extraordinary and minister plenipotentiary of the United States to the Netherlands.

Commissioners Plenipotentiary with rank of minister plenipotentiary:

Brig. Gen. George B. Davis, Judge-Advocate-General, U. S. Army.

Rear-Admiral Charles S. Sperry, U. S. Navy.

William I. Buchanan, of New York.

Technical delegate and expert in international law:

James Brown Scott, of California.

Technical delegate and expert attaché to the Commission:

Charles Henry Butler, of New York.

Secretary to the Commission:

Chandler Hale, of Maine.

Assistant secretaries to the Commission:

A. Bailly-Blanchard, of Louisiana.

William M. Malloy, of Illinois.

The Dutch Government set aside for the use of the Conference, the Binnenhof, the seat of the States-General, and on the 15th day of June, 1907, at 3 o'clock in the afternoon, the Conference was opened by his excellency the dutch minister for foreign affairs in the presence of delegates representing forty-four nations. In the course of his remarks his excellency offered "a tribute of gratitude to the eminent statesman who controls the destinies of the United States of America. President Roosevelt has greatly contributed to harvest the grain sown by the August Initiator of the solemn international conferences assembled to discuss and to render more exact the rules of international law which, as the States are the first to recognize, should control their relations."

At the conclusion of the address of welcome his excellency suggested as president of the Conference His Excellency M. Nelidow, first delegate of Russia, and, with the unanimous consent of the assembly, M. Nelidow accepted the presidency and delivered an address, partly personal, in which, in addition to thanking the Conference for the honor of the presidency, he called attention to the work of the First Conference and outlined in a general way the underlying purpose of the Second Conference and the hopes of the delegates assembled. At the termination of his address he proposed the personnel of the secretary-general's office.

At the next meeting of the Conference, on the 19th day of June, the president proposed that the Conference follow the procedure of the First Conference, adapting it, however, to the new conditions; for, as the Conference was so large, it seemed advisable to draw up a series of rules and regulations to facilitate the conduct of business. The president thereupon proposed the following twelve articles, which were unanimously adopted, with the exception of the third paragraph of article 8 which was suppressed:

ARTICLE 1. The Second Peace Conference is composed of all the plenipotentiaries and technical delegates of the Powers which have signed or adhered to the conventions and acts signed at the First Peace Conference of 1899.

ART. 2. After organizing its bureau, the Conference shall appoint commissions to study the questions comprised within its programme.

The plenipotentiaries of the Powers are free to register on the lists of these commissions according to their own convenience and to appoint technical delegates to take part therein.

ART. 3. The Conference shall appoint the president and vice-presidents of each commission. The commissions shall appoint their secretaries and their reporter.

ART. 4. Each commission shall have the power to divide itself into subcommissions which shall organize their own bureau.

ART. 5. An editing committee for the purpose of coordinating the acts adopted by the Conference and preparing them in their final form shall also be appointed by the Conference at the beginning of its labors.

ART. 6. The members of the delegations are all authorized to take part in the deliberations at the plenary sessions of the Conference as well as in the commissions of

which they form part. The members of one and the same delegation may mutually replace one another.

ART. 7. The members of the Conference attending the meetings of the commissions of which they are not members shall not be entitled to take part in the deliberations without being specially authorized for this purpose by the presidents of the commissions.

ART. 8. When a vote is taken each delegation shall have only one vote.

The vote shall be taken by roll call, in the alphabetical order of the Powers represented.

[The delegation of one Power may have itself represented by the delegation of another Power.]

ART. 9. Every proposed resolution or desire to be discussed by the Conference must, as a general rule, be delivered in writing to the president, and be printed and distributed before being taken up for discussion.

ART. 10. The public may be admitted to the plenary sessions of the Conference. Tickets shall be distributed for this purpose by the Secretary-General with the authorization of the president.

The bureau may at any time decide that certain sessions shall not be public.

ART. 11. The minutes of the plenary sessions of the Conference and of the commissions shall give a succinct résumé of the deliberations.

A proof copy of them shall be opportunely delivered to the members of the Conference and they shall not be read at the beginning of the sessions.

Each delegate shall have a right to request the insertion in full of his official declarations according to the text delivered by him to the secretary, and to make observations regarding the minutes.

The reports of the commissions and subcommissions shall be printed and distributed before being taken up for discussion.

ART. 12. The French language is recognized as the official language of the deliberations and of the acts of the Conference.

The Secretary-General shall, with the consent of the speaker himself, see that speeches delivered in any other language are summarized orally in French.

The president stated that the programme for the work of the Conference was so elaborate that a division of the Conference into four commissions would be advisable; that in so doing the precedent of 1899 would be followed, for the First Conference apportioned the subjects enumerated in the programme among three commissions. The following dispositions were thereupon proposed and agreed to:

FIRST COMMISSION.

Arbitration.

International commissions of inquiry and questions connected therewith.

SECOND COMMISSION.

Improvements in the system of the laws and customs of land warfare.

Opening of hostilities.

Declarations of 1899 relating thereto.

Rights and obligations of neutrals on land.

THIRD COMMISSION.

Bombardment of ports, cities, and villages by a naval force.

Laying of torpedoes, etc.

The rules to which the vessels of belligerents in neutral ports would be subjected.

Additions to be made to the convention of 1899 in order to adapt to maritime warfare the principles of the Geneva Convention of 1864, revised in 1906.

FOURTH COMMISSION.

Transformation of merchant vessels into war vessels.

Private property at sea.

Delay allowed for the departure of enemy merchant vessels in enemy ports.

Contraband of war. Blockades.

Destruction of neutral prizes by *force majeure*.

Provisions regarding land warfare which would also be applicable to naval warfare.

The president thereupon proposed as presidents or chairmen of the various committees the following delegates:

First Commission: M. Léon-Bourgeois.

Second Commission: M. Beernaert; assistant president, M. T. M. C. Asser.

Third Commission: Count Tornielli.

Fourth Commission: M. de Martens.

At the same time the president designated as honorary presidents of the third and second commissions, Messrs. Joseph H. Choate and Horace Porter, and as a member of the correspondence committee Hon. Uriah M. Rose. The president recommended that the deliberations be kept secret, or, at least, that they be not communicated by members to the press. The recommendation was unanimously adopted but was not universally adhered to by the delegates.

The first, second, and third commissions were subsequently divided into subcommissions in order to reduce the numbers and to facilitate the work, and at various times committees of examination were appointed by each of the commissions in order still further to reduce membership and to present in acceptable form projects accepted in principle but not in detail by the various commissions. Finally, in order to correct the language and to assign the various projects already approved to their proper place in the Final Act, a large editing committee (*comité de rédaction*) was appointed at a meeting of the Conference and a subcommittee was appointed, consisting of eight members, to do the work of the large committee and report to it. It may be said that the American delegation was represented on almost all of these various committees and subcommittees.

The actual work of the Conference was, therefore, done in commission and committee. The results, so far as the several commissions desired, were reported to the Conference sitting in plenary session for approval, and, after approval, submitted to the small subediting committee for final revision which, however, affected form, not substance. The results thus reached were included in the Final Act and signed by the plenipotentiaries on the 18th day of October, 1907, upon which date the Conference adjourned.

The positive results of the Conference might be set forth, with perhaps equal propriety, in either one of two ways: First, by discussing the work of each commission and the results accomplished by each; or secondly, by enumerating and describing the results in the order in which they appear, arranged by the Conference itself, in the Final Act. The first method would have the advantage of showing the work of each commission as a whole from the presentation of the various projects until they took final shape in the commission and were approved by the Conference in plenary session. As, however, important projects were considered by the commission, but were not voted upon by the Conference, or, if voted in a form so modified as to appear almost in the nature of original propositions, and inasmuch as the various conventions and measures adopted are arranged in the Final Act without specific reference to the commissions, it seems advisable to follow the order of the Final Act, so that each measure may occupy the place in the report which was assigned to it by the Conference itself. This arrangement will bring into prominence the result, rather than the means by which the result was reached, and will prevent in no slight measure repetition and duplication.

Following then the order of the Final Act, the various conventions, declarations, resolutions, and recommendations are prefaced by an apt paragraph setting forth the spirit which animated the Conference:

In a series of reunions, held from June 15th to October 18th, 1907, in which the delegates aforesaid have been constantly animated by the desire to realize in the largest measure possible the generous views of the August Initiator of the Conference and the intentions of their Governments, the Conference adopted, to be submitted to the signatures of the plenipotentiaries, the text of the conventions and of the declaration hereinafter enumerated and annexed to the present act.

The Final Act then enumerates fourteen subjects, thirteen of which are conventions and one is a declaration. Of each of these in turn.

I.—CONVENTION FOR THE PEACEFUL ADJUSTMENT OF INTERNATIONAL DIFFERENCES.

This convention is, both in conception and execution, the work of the First Peace Conference, of 1899, but the eight years which have elapsed since its adoption suggested many improvements and modifications and not a few additions. The extent of the changes will be evident from the mere statement that while the convention of 1899 contained sixty-one articles, the revision of 1907 contains ninety-seven articles. But these figures throw no light upon the nature and importance of the changes. The structure of 1899, however, practically remains intact, the chief addition being the provision for summary procedure proposed by the French delegation and accepted by the Conference. (Title IV, Chapter IV, arts. 86–90.) All important changes which tended either to enlarge the scope of the convention or to facilitate its application, thereby rendering it more useful, will be discussed in detail in the order of the convention.

Articles 2 to 8 of Title II of the revised convention deal with good offices and mediation, and in this title there is only one change of importance, namely, the insertion of the word "desirable" in article 3, so that the extension of good offices by Powers strangers to the conflict is considered not merely useful, as in the convention of 1899, but desirable, as revised by the Conference of 1907. The change is perhaps slight, but the Powers might well consider a thing useful and yet consider it undesirable. It may well be that the word "desirable" is a step toward moral duty and that in time it may give rise to legal obligation. The same may be said of the insertion of the word "desirable" in article 9, making the recourse to the international commission of inquiry desirable as well as useful. Both additions were proposed by the American delegation and accepted unanimously by the Conference. In this connection it may be advisable to note that a like change has been made upon the proposal of Austria-Hungary in the revision of article 16 of the original convention, so that the arbitration of judicial questions and questions of interpretation and application of international conventions is declared to be not only efficacious and equitable but desirable. (Art. 38.)

Title III in both the original and revised conventions deals with international commissions of inquiry; but while the convention of 1899 contained but six articles (9–14, inclusive), the revision contains twenty-eight. A little reflection shows the reason for the great care

and consideration bestowed upon the commission of inquiry by the recent Conference. In 1899 an institution was created which was hoped would be serviceable. In 1907 the creation was revised and amplified in the light of practical experience, for the institution, theoretically commendable, had justified its existence at a very critical moment, namely, by the peaceful settlement of the Dogger Bank incident (1904). The provisions of 1899 were meager and insufficient to meet the needs of a practical inquiry. In 1907 the procedure actually adopted by the commission of inquiry was presented to the Conference, studied, considered, and made the basis of the present rules and regulations. The nature of the commission of inquiry is, however, unchanged. It was and is an international commission charged with the duty of ascertaining the facts in an international dispute, and its duty is performed when the facts in controversy are found. It does not render a judgment, nor does it apply to the facts found a principle of law, for it is not a court. (Art. 35.)

The seat of the commission is The Hague, but the parties may provide in the agreement of submission that the commission meet elsewhere (art. 11), or the commission may, after its formation and during its session at The Hague, transport itself, with the consent of the parties, to such place or places as may seem appropriate to ascertain the facts in controversy. The parties litigant not only bind themselves to furnish to the commission of inquiry, in the largest measure possible, the means and facilities necessary for the establishment of the facts, but the contracting Powers agree to furnish information in accordance with their municipal legislation unless such information would injure their sovereignty or security.

As previously said, the First Conference created the commission of inquiry, but left it to the parties to the controversy to fix the procedure, specifying only that upon the inquiry both sides be heard. If the procedure were not established in advance by the litigating Powers, it was then to be devised by the commission. (Art. 10.) The disadvantages of this provision are apparent. The parties, inflamed by passion or ill at ease, were, upon the spur of the moment, to devise an elaborate code of procedure, a task which might well be as difficult as to ascertain the facts in dispute. In the next place, if they did not do so, the commission was to fix the procedure. That this task might well be intrusted to the commission is proved by the fact that the commission of 1904 did in fact devise a satisfactory code. But the procedure thus framed could not be known to the litigating countries in advance, and the agents and counsel were thus deprived of the opportunity of familiarizing themselves with it before entering upon the case.

The revision of 1907, therefore, aims to obviate this difficulty by establishing a careful code of procedure based upon the experience of the commission of 1904. It is practical in its nature, for it is based upon actual practice. It provides in advance the procedure of the commission, thus relieving the parties from this serious task and leaving the commission free to begin its labors without the necessity of drawing up an elaborate system of rules and regulations for the conduct of business before it. The procedure, however, is not obligatory, for the parties may, if they choose, specify in the submission the procedure to be followed (art. 10), but the Conference recommended a code of procedure which was to be applied if the

parties did not adopt other rules (art. 17). The revision of the title devoted to international commissions of inquiry received the unanimous approval of the Conference.

The selection of commissioners is, and must always be, a matter of delicacy and difficulty. Facts as seen by one person differ from those as seen by another, and national interest tends unconsciously to warp the judgment of one whose country is involved in the controversy. But the value of the findings of fact depends upon their accuracy. If possible, they should be found by a tribunal from which nationals are excluded. The world does not seem to be ready for this ideal solution, but the Conference made a serious step toward it by associating strangers to the controversy with the commissioners. Article 12 of the revised convention for the peaceful adjustment of international differences provides that the commissioners of inquiry, in the absence of a special agreement to the contrary, shall be chosen in accordance with articles 45 and 57 of the revised convention. These articles read as follows:

ART. 45. When the Contracting Powers desire to have recourse to the Permanent Court for the settlement of a difference that has arisen between them, the arbitrators called upon to form the competent Tribunal to decide this difference must be chosen from the general list of members of the Court.

Failing the agreement of the parties on the composition of the Arbitration Tribunal, the following course shall be pursued:

Each party appoints two arbitrators, of whom only one shall be its citizen or subject, or chosen from among those who have been designated by it as members of the Permanent Court. These arbitrators together choose an umpire.

If the votes are equal, the choice of the umpire is intrusted to a third Power, selected by the parties by common accord.

If an agreement is not arrived at on this subject, each party selects a different Power, and the choice of the umpire is made in concert by the Powers thus selected.

If these two Powers have been unable to agree within a period of two months, each of them presents two candidates taken from the list of the members of the Permanent Court, outside of the members designated by the parties and not being the citizens or subjects of either of them. It shall be determined by lot which of the candidates thus presented shall be the umpire.

ART. 57. The umpire is by right President of the Tribunal.

When the Tribunal does not include an umpire, it appoints its own President.

A³ consideration of article 45 discloses that at least one of the commissioners or arbitrators shall be a stranger to the controversy. Article 32 of the convention of 1899 left both commissioners or arbitrators to the free choice of the selecting Power. In the next place, it will be noted that the revised convention endeavors to secure the composition of the commission or court by providing ample machinery for the selection of the umpire. In the convention of 1899, in case of an equality of votes, the selection of the umpire was confided to a third Power designated by the common accord of the parties to the controversy. If, however, the parties failed to agree upon the third Power in question, each litigant chose a neutral Power, and these neutral Powers selected the umpire. It might well happen, however, that the agents would be as far from agreement as the principals. The revision therefore provided that in case of disagreement each litigant Power should select two members from the list of the Permanent Court, who should neither be citizens nor owe their appointment to a designating Power; that thereupon the umpire should be chosen by lot from the members of the Court so designated.

It will therefore be seen that the commission or court will consist of a body of five, at least two of whose members must be strangers

to the controversy. The umpire selected by their common accord may be indifferent. If the commissioners or arbitrators fail to agree and make use of the machinery provided, it follows that the umpire selected is a stranger to the controversy, and of the commission or court consisting of five competent persons a majority, that is to say, three, would be persons having no national interest or bias in the controversy. It would seem, therefore, that the revised convention offers a guarantee for the finding of the facts as impartially as can be the case when national representatives are members of a small commission or court. As these provisions apply to the selection of arbiters for the constitution of the court at The Hague, it is not necessary to refer to them again in detail.

Article 48 of the revision of the convention of 1899 reads as follows:

The Signatory Powers consider it their duty, if a serious dispute threatens to break out between two or more of them, to remind these latter that the Permanent Court is open to them.

Consequently, they declare that the fact of reminding the conflicting parties of the provisions of the present convention, and the advice given to them, in the highest interests of peace, to have recourse to the Permanent Court, can only be regarded as friendly actions.

To these two paragraphs was added the following provision:

In case of a controversy between two Powers, one of them may always address to the International Bureau a note containing its declaration that it is willing to submit the difference to arbitration.

The Bureau shall immediately make the declaration known to the other Power.

The American delegation of 1899 made the following reserve regarding this article, and the American delegation of 1907 repeated the reserve in the exact language of 1899:

Nothing contained in this convention shall be so construed as to require the United States of America to depart from its traditional policy of not entering upon, interfering with, or entangling itself in the political questions or internal administration of any foreign state, nor shall anything contained in the said convention be so construed as to require the relinquishment, by the United States of America, of its traditional attitude toward purely American questions.

The changes regarding the Permanent Court of Arbitration, as in the case of the commission of inquiry, relate chiefly to procedure. In this, as in the previous case, the amendments were the result of experience gained in the actual trial of cases.

In the first place, article 52, a revision of article 31, provides that the agreement to arbitrate (the *compromis*) shall specify in detail the period for the appointment of the arbitrators, the form, order, and periods within which the various documents necessary to the arbitration shall be communicated (art. 63), the amount of money which each party shall deposit in advance to cover expenses. In addition, the agreement to arbitrate shall also, if there is occasion, determine the manner of appointment of the arbitrators, all special powers which the Tribunal may have, its seat, the language which it will use and those whose use will be authorized before it, and, in general, all the conditions which the parties have agreed upon.

It is often difficult to formulate the question to be submitted to the court, and it may well be that the parties litigant, although willing to arbitrate, may not agree upon the form of submission. In order, therefore, to aid the parties, not to coerce them, the revised convention provides a method by which the Permanent Court is competent to draw up the agreement to arbitrate if the parties agree to

leave it to this court. It may happen that one party is willing and the other is not. The convention therefore provided that in such a case the court might, upon the request of one of the parties, formulate the *compromis*. The exact language of the article follows:

After an agreement through diplomatic channels has been attempted in vain it is likewise competent, even if the request is made by only one of the parties, in case—

(1) Of a difference comprised within a general arbitration treaty concluded or renewed after this convention goes into force, providing an agreement to arbitrate for each difference, and neither explicitly nor implicitly barring the competency of the Court to draw up such agreement to arbitrate. However, recourse to the Court shall not be had if the other party declares that the difference does not in its opinion belong to the category of differences to be submitted to compulsory arbitration—unless the arbitration treaty confers upon the Arbitral Tribunal the power to decide this preliminary question.

(2) Of a difference arising from contractual debts claimed by one Power of another Power as being due to its citizens or subjects, and for the solution of which the offer of arbitration has been accepted. This provision is not applicable if the acceptance has been made contingent on the condition that the agreement to arbitrate shall be drawn up in another manner.

If the other party consents, and the moral pressure will be great, the special agreement may be reached in this manner; but as the court is not permanently in session and would have to be constituted for the express purpose of formulating the agreement, it follows that the agreement must in reality be the result of the consent of both parties, because the court can only be constituted by the joint act and co-operation of both parties litigant. It is supposed, however, that the presence of such a possibility may lead disputants to reach a conclusion, even although they do not care to avail themselves of the machinery provided.

It should be noted that the second section of article 53 refers to the arbitration of differences arising from contractual debts. As the agreement to renounce the use of force depends upon arbitration, and as arbitration is impossible without the preliminary agreement of submission, it may happen that a failure to agree would destroy, in large measure, the value of the convention. It is hoped that the provisions of this article will enable the agreement to be formulated in extreme cases and thus exclude even the suggestion of force.

The other changes made in the procedure are important, but are not of a nature to cause discussion or comment, because they facilitate but do not otherwise modify the proceedings before the court.

Chapter IV of the revised convention deals with summary arbitration proceedings. Experience shows that it is difficult to constitute the Permanent Court, and that a trial before it is lengthy as well as costly. The Conference, therefore, adopted the proposal of the French delegation to institute a court of summary procedure, consisting of three judges instead of five, with a provision that the umpire, in case of disagreement, be selected by lot from members of the Permanent Court strangers to the controversy. The proceedings are in writing, with the right of each litigant to require the appearance of witnesses and experts. It was hoped that a small court with a summary procedure might lead nations to submit cases of minor importance and thus facilitate recourse to arbitration and diminish its expense.

From this brief survey of the amendments to the convention for the peaceful adjustment of international differences it will be seen

that they are not in themselves fundamental, that they do not modify the intent or purpose of the original convention, but that they render the institution of 1899 more efficient in the discharge of its duties. The American delegation, therefore, assisted in the work of revision and signed the convention.

II.—CONVENTION CONCERNING THE LIMITATION OF THE EMPLOYMENT OF FORCE IN THE COLLECTION OF CONTRACT DEBTS.

This convention is composed of but two paragraphs, and in simplest terms provides for the substitution of arbitration for force in the collection of contractual debts claimed of the Government of one country by the Government of another country to be due to its nationals. The renunciation of the right to use force is explicit, but to receive the full benefit of this renunciation the debtor must in good faith accept arbitration. Should the parties be unable, or should it be difficult, to formulate the special agreement necessary for the submission of the case, resort may be had to the Permanent Court for the establishment of the special agreement (*compromis*) in accordance with article 53 of the convention for the peaceful adjustment of international differences.

Finally, the arbitration shall determine, in the absence of agreement between the parties, the justice and the amount of the debt, the time and the mode of payment thereof. It would seem, therefore, that this convention of but two articles will prevent a recourse to force in the future for the collection of contract debts. It should not be overlooked that the agreement to arbitrate is obligatory upon debtor as well as creditor and that the acceptance of the convention is a triumph for the cause of arbitration. It is true that the right to use force was only renounced conditioned upon an arbitration of the indebtedness, but it is not too much to say that the debtor nation may henceforth protect itself from the danger of force and that the application or nonapplication of force really depends upon the good faith of the debtor. This convention was introduced by the American delegation and adopted by the Conference.

III.—CONVENTION RELATIVE TO THE OPENING OF HOSTILITIES.

The convention is very short and is based upon the principle that neither belligerent should be taken by surprise and that the neutral shall not be bound to the performance of neutral duties until it has received notification, even if only by telegram, of the outbreak of war. The means of notification is considered unimportant, for if the neutral knows, through whatever means or whatever channels, of the existence of war, it can not claim a formal notification from the belligerents before being taxed with neutral obligations. While the importance of the convention to prospective belligerents may be open to doubt, it is clear that it does safeguard in a very high degree the rights of neutrals and specifies authoritatively the exact moment when the duty of neutrality begins. It is for this reason that the American delegation supported the project and signed the convention.

IV.—CONVENTION CONCERNING THE LAWS AND CUSTOMS OF WAR ON LAND.

The Conference of 1899 codified the laws of warfare on land within the compass of sixty articles, to which was prefaced an introduction of a formal nature consisting of five articles. The recent Conference revised the convention of 1899, modified it in parts, and added various provisions in order to render the codification as complete and thorough, as accurate and scientific, as the changeable nature of the subject will permit. Following the arrangement of 1899, the revised convention contains several introductory articles, one of which will be discussed later. The various modifications and the additions of the revised convention will be briefly set forth in the order of the convention.

Article 2 is substantially the original text of 1899, with the additional requirement that the population of a nonoccupied territory shall be considered as belligerent "if it carries arms openly and respects the laws and customs of war." States with large permanent armies are unwilling to accord belligerent rights to populations rising at the approach of an enemy. The smaller States, on the contrary, which do not maintain large standing armies, rely upon the patriotism of the mass of the people. This article is conceived in the interest of the small Power with a small standing army, but requires that the population shall not only conform to the laws of war, but shall bear arms openly, so that their military character may be evident.

Article 5 is amended in the interest of the prisoners of war. In its original form the article permitted the internment of prisoners and their confinement "as an indispensable measure of security." The right of confinement is restricted by the addition of the phrase "and only during the existence of the circumstances which necessitate that measure."

Article 6 is slightly modified and improved by withdrawing from captor States the right to utilize the labor of "commissioned officers." The final paragraph of the original article provided that prisoners should be paid for their work and labor according to the tariffs in force for soldiers of the national army. As it appeared that tariffs in this case were not universal, the following clause was added: "If there are no established rates, at rates appropriate to the work done."

The bureau of information regarding prisoners of war was established by article 14 and, although excellent in conception, is defective in certain regards; for example, inadequate provision is made for keeping the records of individual prisoners of war and for the disposition of their records at the termination of the war. The revision supplies the omissions.

Article 17 in original form provided that officers who were prisoners of war should receive pay according to the tariff of their country. As, however, many nations, including the United States, allow no pay to such prisoners, the article was revised and modified to read as follows:

The Government will allow to officers who are prisoners in its hands the pay to which officers of the same grade are entitled in its own service, subject to the condition that it shall be reimbursed by their own Government.

To a nation which cultivates neutrality this provision can impose no serious burden.

Article 23 prohibits certain means of destruction and certain actions of belligerents. To the large category are added two additional paragraphs. It is forbidden to declare extinguished, suspended, or inadmissible in courts of justice the rights and choses in action of the citizens or subjects of the adverse party. The second addition demands more than a quotation, for the additional paragraph forbids a belligerent to force enemy citizens or subjects into taking part against their country, even although such citizens or subjects may have been in its service before the commencement of the war. While it can not be said that war is exclusively a relation between State and State, the modern tendency is to exclude peaceful noncombatants from its rigors. The inhibition of this paragraph frees the population of an invaded territory from being called upon and forced to serve and extends the inhibition to those who may have been in the service of the belligerent before the outbreak of the war. Attention may be called in this place to article 44, which further extends and safeguards the right of the inhabitants of occupied territory by forbidding the enemy to force the inhabitants to give information concerning the opposing army or its means of defense.

The original article 25 forbade belligerents to attack or bombard undefended towns, villages, dwelling places, or buildings. The framers of this article had in view the ordinary means of attack and bombardment. The increased employment of balloons or other like agencies in military operations suggested the insertion of the phrase "by any means whatsoever," so that undefended towns, villages, dwellings, or buildings are not subject to land, aerial, or, as will be seen later, naval attack. (See Convention IX.) In article 27 historical monuments are included in the buildings exempt from bombardment.

A slight addition is made to article 52, providing that the payment of levies in kind, verified by receipts, "shall be arranged for as soon as possible." A nearer approach is thus made to final payment.

Article 53 as amended brings within the scope of military operations "all means of communication and of transport employed on land or sea or in the air for the conveyance of persons, things, or messages," but provides that they shall be restored and indemnities agreed upon at the establishment of peace. The last paragraph of the article provides that submarine cables connecting the occupied or hostile territory shall only be subject to destruction or seizure in case of absolute necessity. They are likewise to be restored and indemnities agreed upon.

Such are the changes suggested by the experience of the past eight years proposed to and adopted by the Conference. Few in number, their importance is considerable, if for no other reason, that they make for completeness, supplying omissions and resolving doubts. An officer in the field can not well be expected to weigh and balance with nicety the vexed problems of international law. A clear and concise code is what he needs and must have. This the convention supplies, and it must therefore be widely acceptable, although we

may well cherish the hope that its dispositions may not be tested for years upon the battlefield or in campaign.

In one respect, however, the revised convention clearly surpasses its predecessor, for article 3 of the introduction supplies a sanction for the violation of its provisions. To quote literally:

The belligerent party who shall violate the requirements of these regulations shall be held to indemnity in a proper case. It will be responsible for all acts committed by persons forming a part of its armed forces.

Upon this article and the reasons prompting it the military delegate uses the following apt and convincing language:

It is one of the most essential rules of international good neighborhood that the States composing the family of nations shall be guided by the highest good faith in the execution of their treaty obligations. The rules of war of 1899 form no exception to this wholesome and necessary rule. It should be observed, however, that the several requirements of the undertaking are carried into effect—not under the immediate control and direction of the foreign offices of the signatory Powers, but by military officers in the theatre of hostile activity, each acting within the sphere of his command and duty in the military establishment of the belligerent under whose flag he serves. It is not surprising that differences of interpretation and of execution should have arisen in the application of the convention of 1899, or that undue severity should have been shown, from time to time, in the exercise of authority by subordinate commanders. To correct this dangerous tendency and give due emphasis to the well-established administrative principle that the State itself is responsible for the acts of its military commanders and subordinate agents, it was determined to add a concluding paragraph having some of the aspects of a penal clause. Its operation will be to require those charged by their Governments with the exercise of high military command to maintain such a constant supervision over the acts of their subordinates as will be calculated to secure the exact and rigorous enforcement of the several requirements of the convention.

If the circumstances of a particular war are such as to suggest the application of a rule of limitation to cases arising under the article, such mutual stipulations in that regard as are warranted by the facts may properly find a place in the treaty of peace.

V.—CONVENTION CONCERNING THE RIGHTS AND DUTIES OF NEUTRAL POWERS AND PERSONS IN LAND WARFARE.

This convention is divided into five chapters, dealing, respectively, with the rights and duties of neutral Powers (arts. 1–10), prisoners and wounded in neutral territory (arts. 11–15), neutral persons (arts. 16–18), railroad material (art. 19), and, finally, dispositions of a formal nature.

The various provisions of the first chapter are largely declaratory of international law and of recognized usage, providing, generally, for the inviolability of neutral territory (art. 1) and that forcible repression of violations of neutral territory can not be considered a hostile act (art. 10); that belligerents may not use neutral territory for purposes of transit either of army or supplies (art. 2); that belligerents shall not install upon neutral territory wireless-telegraph apparatus (art. 3); that detachments shall not be recruited or enrolled in neutral territory (art. 4), but a neutral is not taxed with responsibility by the sole fact that individuals pass its frontiers singly to take service with the enemy (art. 6); that the neutral should not tolerate upon its territory any acts falling within articles 2–4, but is only constrained to punish these acts as contrary to neutrality if actually committed upon its territory (art. 5); that a neutral is not bound to forbid or hinder the exportation or transit, for the account of either belligerent, of arms, munitions, or, in gen-

eral, of anything which may be useful to an army or fleet (art. 7); nor is it obliged to interdict or restrain the use by belligerents of its cables, telephones, or telegraphic apparatus, whether owned by the State or private companies (art. 8); but the provisions of articles 7 and 8 shall be applied indiscriminately to either belligerent.

The provisions of the chapter dealing with the treatment in neutral countries of interned prisoners and wounded are humanitarian in all their parts and require no comment.

Chapter III, dealing with neutral persons, is but a fragment of the various articles submitted by the German delegation to safeguard the rights of neutral persons and property found upon enemy territory. Briefly, they may be summarized as follows: Citizens or subjects of a neutral State not taking part in the war are considered neutrals (art. 16), but lose their neutral character if they commit acts of hostility against or in favor of a belligerent, especially if they take service with one or the other enemy (art. 17). The neutral character, however, is not forfeited by the following acts:

a. Supplies furnished or loans voluntarily made to one of the belligerent parties, provided the furnisher or lender is not a resident of the territory of the other party or of territory in its military occupation and the supplies furnished are not furnished from either of these territories.

b. Services rendered in connection with police or civil administration.

Chapter IV consists of but a single article, providing, briefly, that railroad material belonging to neutral States, corporations, or private individuals shall only be requisitioned or used by a belligerent in case of imperative necessity; that it shall be returned to the country of origin as soon as possible; that a neutral may use like property belonging to a belligerent in case of necessity, and that an indemnity shall be paid for such use. (Art. 19.) This last article is unlikely to have any great importance in a country so situated as the United States, but to a country surrounded by strong and powerful neighbors, as is Luxemburg, the proposer of the article, it may be of no little advantage.

The convention as a whole received the support of the American delegation and was signed by the plenipotentiaries.

VI.—CONVENTION REGARDING THE ENEMY'S SHIPS OF COMMERCE AT THE BEGINNING OF HOSTILITIES.

The uninterrupted practice of belligerent Powers since the outbreak of the Crimean war has been to allow enemy merchant vessels *in their ports at the outbreak of hostilities* to depart on their return voyages. The same privilege has been accorded to enemy merchant vessels which sailed before the outbreak of hostilities, to enter and depart from a belligerent port without molestation on the homeward voyage. It was therefore the view of the American delegation that the privilege had acquired such international force as to place it in the category of obligations. Such, indeed, was the view of a majority of the Conference, but as the delegation of Great Britain adhered to the opinion that such free entry and departure was a matter of grace, or favor, and not one of strict right, the articles regard it as a delay by way of favor and refer to the practice as *desirable*.

In support of the American view the case of the *Buena Ventura* is in point. This case was decided in 1899, and in his opinion Justice Peckham says:

It being plain that merchant vessels of the enemy carrying on innocent commercial enterprises at the time or just prior to the time when hostilities between the two countries broke out would, in accordance with the later practice of civilized nations, be the subject of liberal treatment by the Executive, it is necessary when his proclamation has been issued, which lays down rules for treatment of merchant vessels, to put upon the words used therein the most liberal and extensive interpretation of which they are capable; and where there are two or more interpretations which possibly might be put upon the language, the one that will be most favorable to the belligerent party, in whose favor the proclamation is issued, ought to be adopted.

This is the doctrine of the English courts, as exemplified in *The Phoenix* (Spink's Prize Cases, 1, 5) and *The Argo* (Id., p. 52). It is the doctrine which this court believes to be proper and correct. *The Buena Ventura* (175 U. S., 388).

At the first reading, the convention seems to confer a privilege upon enemy ships at the outbreak of war. Free entry and departure are provided for, ships are not to be molested on their return voyages, and a general immunity from capture is granted to vessels from their last port of departure, whether hostile or neutral. But all these immunities are conditioned upon ignorance of the existence of hostilities on the part of the ship. This condition forms no part of the existing practice, and it was the opinion of the delegation that it substantially neutralized the apparent benefits of the treaty and puts merchant shipping in a much less favorable situation than is accorded to it by the international practice of the last fifty years.

An enemy merchant vessel approaching a hostile port which is notified by an armed cruiser, or which obtains the information under circumstances calculated to charge it with knowledge of the fact that hostilities exist, forfeits the immunities conferred by the treaty and becomes, *eo instante*, liable to capture. As the freight trade of the world is carried on in steamers which habitually carry only enough coal to reach their destination, the operation of the treaty is to render them instantly liable to capture, the alternative being to continue to the hostile destination and surrender.

The convention operates powerfully in favor of a State having a predominant naval force and possessed of numerous ports throughout the world, so situated that a merchant vessel carrying its flag may take refuge in such ports on being notified that hostilities exist. All other Powers would be placed in a position of great disadvantage, and their merchant marine would suffer incalculable injury as the result of its adoption.

The effects upon the practice of marine insurance are also important. The ordinary contract does not cover a war risk. The operation of a war risk is simple because its conditions and incidents are fully known. But a policy calculated to cover the contingency of capture, the risk depending upon the chance or possibility of notification, would introduce an element of uncertainty into marine risks which, in view of the interests at stake, should not be encouraged.

The convention also presents an undesirable alternative in the treatment of enemy merchant ships, in that it provides that in certain cases they may be seized "subject to restoration after the war without indemnity," or to "immediate requisition with indemnity." As merchant marine commerce is carried on it is obvious that the condition of the cargo which is detained in indifferent or inefficient

custodianship during the ordinary duration of war would approach confiscation. It would also be substantially impossible to make such a risk the subject of a practicable contract of insurance.

The foregoing convention was not signed by the delegation, and its acceptance as a conventional obligation is not recommended.

VII.—CONVENTION FOR REGULATING THE TRANSFORMATION OF VESSELS OF COMMERCE INTO VESSELS OF WAR.

The delegation found no objection to the requirements of the foregoing convention in so far as its application to the transformation of purchased or chartered vessels into public armed vessels is concerned.

The preamble recites the fact that the Powers have been unable to come to an agreement as to the transformation of a merchant vessel into a public armed vessel on the high seas in time of war. For that reason the convention is silent as to the place where such transformation shall take place, and the several articles of the convention are restricted in their operation to such other incidents of the transformation as relate to the authority to make it, the public record of the fact, the external marks of the transformed vessel, the character of the officers and crew, the discipline to be maintained, and the subjection of the vessel in its operations to the rules of maritime warfare.

It will be noted that the question of the place where the transformation of vessels of commerce into vessels of war is expressly excluded by the preamble to the convention because the Conference was unable to harmonize the divergent views upon this matter. The American delegation, wishing to obviate controversies in the future, insisted that the transformation should take place either within the home port or territorial waters of the transforming country. Other delegations insisted that the transformation might take place not only within the home ports and territorial waters, but upon the high seas. As the difference of opinion was radical and irreconcilable, it was agreed to eliminate the question from the convention, but with such elimination the convention ceased to have any great value.

The delegation would, perhaps, have approved and signed the convention as it stands were it not for the fact that the Conference considered its provisions as the corollary of the Declaration of Paris and as a guarantee against a more or less disguised return to the practice of privateering. The United States has not renounced the right to resort to privateering, although it has on various occasions expressed a willingness so to do if the inviolability of unoffending private property belonging to the enemy on the high seas be guaranteed. The American delegation made a declaration to that effect at the thirteenth session of the committee of examination and repeated it at the seventh plenary session of the Conference on September 27, 1907, in the following language:

It is evident that the propositions incorporated in the report of the committee of examination have for their principal object the reiteration of the Declaration of Paris relative to the abolition of privateering. It is well known that the Government of the United States of America has not adhered to that Declaration for the sole reason that it refuses to recognize the inviolability of private property on the high seas. The propositions submitted present questions solely for the consideration of the Powers which are

signatories of the Declaration of Paris, and consequently our delegation must, for the present, decline to participate in their discussion and abstain from voting. If, however, the Conference, by its action, should establish the inviolability of private property on the seas, this delegation would be pleased to vote for the abolition of privateering.

The delegation was not unmindful of an internal and constitutional question in taking this action, for Congress is given by the Constitution the power "to declare war, *grant letters of marque and reprisal*, and make rules concerning captures on land and water." (Constitution, Art. I, sec. 8, cl. 10.) At various times Congress has exercised this right, by the acts of June 18, 1812, June 26, 1812, and January 27, 1813, the latter two in furtherance of or amendment to the original act of 1812. In view of the constitutional origin and nature of the right to grant letters of marque and reprisal, and in view of the fact that this right has been exercised by Congress, it seemed to the American delegation inadvisable to seek to bind the United States by conventional stipulations.

VIII.—CONVENTION IN REGARD TO THE PLACING OF SUBMARINE MINES.

The question of imposing restrictions upon the employment of submarine mines gave rise to extensive discussion and was made the subject of numerous propositions. Some of these were adopted and some were rejected by the Conference. It is quite safe to say, however, that, due to the enormous loss of life and property as a result of the floating mines in the China Sea since the close of hostilities in the vicinity of Port Arthur, international public opinion now demands that anchored mines which may break loose from their moorings, shall, by the fact of going adrift, become harmless. There is a similar demand that nonanchored mines, if employed by belligerents in time of war, shall become inoffensive within a very short time, one or two hours at the longest, after they have passed out of the control of the party who planted them in the high seas or in the territorial waters of a belligerent. Beyond this, if there has been a formulation of public opinion, it is not unanimous and, possibly for that reason, has not found unequivocal expression.

The clauses which were inserted in deference to the demands of the insistent public opinion of the civilized world are embodied in the three numbered paragraphs of Article I. In Article II the placing of mines is prohibited along the coasts or before the ports of an adversary for the sole purpose of interrupting commercial navigation. In other words, a blockade may not be established and maintained by the sole use of submarine mines. Articles III, IV, and V are intended to provide for the safety of navigation of mine fields by commercial vessels and to insure the removal of mines at the close of the war. Article IV permits neutrals to use mines in the enforcement of their neutral rights and duties. Article VI contains the stipulation that Powers whose existing systems of mine defense do not conform to the requirements of the convention shall bring about such conformity "as soon as possible." In Article VII the life of the convention is restricted to seven years, or until the close of a Third Peace Conference if that date is earlier.

The convention as adopted by the Conference in plenary session was generally acceptable to maritime Powers and was approved by the delegation of the United States.

IX.—CONVENTION CONCERNING THE BOMBARDMENT OF UNDEFENDED PORTS, CITIES, AND VILLAGES BY NAVAL FORCES IN TIME OF WAR.

The question which the Conference undertook to regulate by a convention might be considered academic were it not for the fact that the possibility of the bombardment of undefended ports, cities, and villages has been suggested and fear expressed that it be carried into practice. It is therefore advisable to prevent in express terms the occurrence of such bombardments; a precedent exists, and the convention brings the rules of land and naval warfare into exact harmony. For example, the rule adopted by the Conference of 1899 is as follows: "The attack or bombardment of towns, villages, habitations, or dwellings which are not defended is prohibited." (Convention Concerning Laws and Customs of Land Warfare of 1899, art. 25.)

In applying a remedy to the situation above outlined, the Conference went somewhat beyond the strict necessities of the case. The prohibition in respect to bombardment is embodied in article 1 of the convention, the last clause of which contains the wholesome requirement that the mere fact that submarine mines are planted in front of a particular port or place shall not operate to take it out of the class of undefended towns.

In article 2, which is in the nature of an excepting clause, a naval force is authorized to be employed against "military works, military or naval establishments, depots of arms or material of war, shops and establishments suitable to be utilized for the needs of the enemy's army or navy, and vessels of war then in port." This requirement may be properly regarded as declaratory of the existing rule, which authorizes the destruction of works or establishments in which material of war is manufactured. The mere presence of an armed vessel in the port operates to take the place out of the class of undefended towns.

Article 3 authorizes the employment of naval force to enforce compliance with a proper naval requisition—as for coal or provisions. If the right to impose requisitions be conceded—and none is better established in international law—it would inevitably follow that force may be used to collect them. To that extent, therefore, article 3 is declaratory. The requirement in respect to the amount and character of the requisition is not only new, but proper.

In article 4 it is expressly forbidden to bombard undefended towns for the nonpayment of contributions as distinguished from requisitions. This is a wise and salutary provision.

Chapter II is intended to regulate the naval bombardment of fortified places and defended towns and imposes upon the attacking force the same restrictions in respect to historical monuments, churches, artistic and scientific collections, hospitals, and similar edifices, which are already recognized in land warfare. (Art. XXVII, Hague Convention, 1899.) It is also made the duty of the local authorities or inhabitants to designate the buildings which are entitled to immunity by a conventional sign, consisting of two large rectangles on which two triangles are superposed, the upper one being colored black and the lower white.

Article 6 charges the commander of the attacking forces with the duty, so far as the military necessities permit, of doing everything in his power to warn the local authorities of the intended

bombardment. (Art. XXVI, Hague Convention, 1899.) In Article 7 pillage is expressly forbidden. (Art. XXVIII, *Ibid.*)

From the humanitarian standpoint the convention is desirable, and it is difficult to see how naval operations can suffer by the observance of the conventional restrictions. The American delegation, therefore, approved and signed the convention.

X.—CONVENTION FOR THE ADAPTATION OF THE PRINCIPLES OF THE GENEVA CONVENTION TO MARITIME WAR.

It is the purpose of this convention to replace the corresponding requirements of the Maritime Convention of July 29, 1899, in respect to the care and treatment of the sick and wounded in maritime warfare. The convention of 1899 was based upon the humane but inadequate, and to some extent obsolete, provisions of the Geneva Convention of 1864. That convention has now been replaced by the new agreement, to which thirty States of the civilized world were signatory parties, entered into at Geneva, Switzerland, on July 6, 1906.

The Geneva Convention of 1906 embodies the advances which have been made in the treatment of the sick and wounded in the forty-two years which had elapsed since the adoption of the original agreement in 1864. The new undertaking, which is restricted in its operation to warfare on land, represents the experience gained in recent military operations in the sanitation, transportation, and treatment of the sick and wounded. It is also in close touch with the great volunteer relief associations, of which the Red Cross Society of the United States is an example, whose function it is not alone to ameliorate the condition of the sick and wounded in time of war, but to act promptly in time of peace with a view to relieve hardship and suffering due to flood, fire, or famine, wherever and under whatsoever circumstances they may occur.

To that end, the convention, like the Geneva Convention of 1906, provides a method of cooperation between the official and charitable agencies which is calculated to secure harmonious and efficient action in the theater of hostile military activities.

It was the purpose of the conference to introduce such amendments and ameliorations into the Maritime Convention of 1899 as were thought necessary to bring it into conformity with the humane requirements of the Geneva Convention of 1906. In point of completeness and efficiency the new convention leaves nothing to be desired.

XI.—CONVENTION WITH REGARD TO CERTAIN RESTRICTIONS UPON THE RIGHT OF CAPTURE IN MARITIME WAR.

This convention marks an important step in advance, in that it confers an immunity from capture upon all postal correspondence, public or private, carried as mail on a neutral or enemy vessel. The parcels post is excepted or, to speak more correctly, is not expressly included in the conventional immunity. The carrying vessel is not exempt from seizure, in a proper case, but in the event of capture the belligerent becomes charged with the duty of forwarding the mails to their destination "with the least possible delay."

Violation of blockade is excluded from the beneficial operation of the convention in article 1, and the liability to search and capture are provided for, subject to reasonable restrictions, in article 2.

The exemption of fishing boats from capture in time of war has been accorded in a number of cases, notably in the leading case of *The Paquete Habana* ([1899] 175 U. S., 677), arising out of the Spanish war, but there have been exceptions, and the rule is by no means one of universal application. The operation of the treaty is to give to the better practice the sanction of conventional obligation and to include small nonseagoing vessels, exclusively engaged in the coast trade, within its beneficial operation. Article 2 confers a similar immunity upon the vessels engaged in scientific, religious, or philanthropic missions.

The concluding chapter regulates the treatment to be accorded to neutral and enemy subjects found on board a captured enemy merchant vessel. The language of the naval delegate states the aim and purpose of the stipulations in the following concise and apt terms:

¶ A distinction is made between neutral and enemy subjects. The neutral citizens or subjects in the crew are released unconditionally without any engagement. The officers who are neutral citizens or subjects are released upon giving a written engagement not to serve on board an enemy ship during the war.

The enemy subjects or citizens are required to give a written engagement not to take part in any service having relation to the operations of the war during the continuance of hostilities.

The reserve contained in Article IV is intended to apply to the case of vessels engaged in *unneutral* service such as the conveyance of fuel or supplies directly to the fleet and, in general, to merchant vessels cooperating with naval forces. The crews of such vessels under the present rules of international law are subject to retention as prisoners of war and no new hardship is imposed.

As the convention in all its parts is conceived in a highly humane spirit, the American delegation both approved and signed it.

XII.—CONVENTION REGARDING THE ESTABLISHMENT OF AN INTERNATIONAL PRIZE COURT.

The details of this convention, as would be expected in an act organizing an international prize court, are complicated. The fundamental principle, however, is simple, namely, that the court of the captor should not pass ultimately upon the propriety or impropriety of a seizure made by the national authorities of which the judge is a subject or citizen; in other words, that one should not be judge in his own cause. It is stated by judges of the highest repute, the great Lord Stowell among the number, that a prize court is an international court, although sitting within the captor's territory and established in pursuance of the rules and regulations issued by the captor; that the law administered in such a court is international law; and that the judgment of the court, in the absence of fraud, is universally binding. This may be the theory, although it seems much like a fiction, for the fact is that prize courts or courts exercising prize jurisdiction are constituted by the municipal authorities; that the judges are appointed, as other municipal judges, by the sovereign power of the State; that the law administered in the court, whether it be largely international in its nature or not, is the municipal or the prize law of the appointing country, and that the judgment delivered has the essential qualities of a national judgment. Even if

the court were strictly international, the judge is, nevertheless, a citizen or subject of the captor, and national prejudices, bias, or an indisposition to thwart the settled policy of his country must insensibly influence the judge in the formation of his opinion. The presumption is in favor of the validity of the capture; upon the neutral is imposed the hard and difficult task to overcome this presumption, and the frequency with which judgments of courts of prize, even of the highest and most respectable courts, have been protested through diplomatic channels and the questions submitted anew to the examination of mixed commissions and decided adversely to the captor, would seem to establish beyond reasonable doubt that, international in theory, they are national in fact and lack the impartiality of an international tribunal. Nor are instances lacking of the submission of questions to a mixed commission which have been passed upon by the Supreme Court of the United States sitting as a court of appeal in prize cases, and in which the United States has by virtue of an adverse decision of a mixed commission reimbursed the claimants. Reference is made by way of example to the well-known case of *The Circassian* (1864] 2 Wall., 135, 160) in which the British and American Mixed Commission made awards in favor of all the claimants. (4 Moore's International Arbitrations, pp. 3911-3923.)

The purpose, then, of the convention is to substitute international for national judgment and to subject the decision of a national court to an international tribunal composed of judges trained in maritime law. It was not the intention of the framers of the convention to exclude a judge of the captor's country whose presence on the bench would insure a careful consideration of the captor's point of view, but to make the decision of the case depend upon strangers to the controversy who, without special interest and national bias, would apply in the solution of the case international law and equity. The national judgment becomes international; the judgment of the captor yields to the judgment of the neutral, and it can not be doubted that neutral Powers are more likely to guard the rights of neutrals than any bench composed exclusively of national judges.

It is not to be presumed, however, that the judgment of the captor will be biased or, if the judgment of the court of first instant be incorrect, that its judgment will not be reversed on appeal to the higher court. It can not be supposed that a judgment of a district court of the United States, if improper, would be affirmed by the Supreme Court of the United States; and it may safely be assumed that few litigants would care to carry a case from the Supreme Court of the United States to an international court, wherever and however established. Delay and expense would militate against it, the known impartiality and the reputation of the Supreme Court would counsel against it, and it would only be an extreme case and one of great importance that would induce private suitor or National Government to seek a reexamination of the case before an international court.

The American delegation was unwilling to allow an appeal directly from the district court to the international court, as in the original German project, holding that the captor's court of appeal should be given the opportunity to correct or revise a judgment and that if a case be submitted to the international court that court would derive inestimable benefit from a careful consideration of the judgment of the Supreme Court. The project was amended so as to permit one

national appeal, out of consideration to the objections of the United States and Great Britain, and when so amended was acceptable to both.

The provisions of article 46 are of importance in this connection. This article provides, briefly, that each party pays its own expenses; the defeated party the expenses of the procedure and in addition pays into the court 1 per cent of the value of the object in litigation to the general expenses of the court. Finally, if the suitor be not a sovereign State, but a private individual, a bond may be exacted by the court to guarantee the expenses above mentioned as a condition of taking jurisdiction. It needs no further argument to show that a case is not likely to be presented to the international court unless the amount or principle involved justifies the submission.

Admitting, however, the possibility of appeal, it is important, in the interest of international justice as well as in the interest of the individual suitor, that there be an end of litigation and that the principle of law applicable to the concrete case be established in a judicial proceeding. It is therefore provided that the appeal from the court of first instance to the national court of appeal shall have been perfected and the case decided within two years from the date of capture, which period was acceptable to Great Britain, a joint proposer with Germany, notwithstanding the fact that the appeal might be from a British vice-admiralty court situated in a remote quarter of the globe. An examination of all the appeals taken from the judgments of district courts in cases arising out of the late Spanish-American war shows that this period of time was adequate for the ultimate disposition of those cases before the Supreme Court of the United States. The period, therefore, was satisfactory to the American delegation. But it might happen that the case was not settled either in the court of first instance or in the international court of appeal within the conventional period of two years. In such a case it is provided that the case may be transferred from the national court and submitted to the International Court of prize at The Hague. Should these provisions commend themselves generally, cases will be decided promptly by national courts, and the ultimate decision of the international court, if one there is to be, will be handed down before the suitor is broken in fortune and years.

The proposed court is to consist of fifteen judges, of whom nine shall constitute the quorum necessary for the transaction of business. (Art. 14.) They are to be chosen from among jurists of recognized competency in questions of international maritime law and should possess the highest moral consideration. They are to be nominated for a period of six years, and their appointment may be renewed. Of the fifteen judges, eight countries possess the right to nominate each a judge to serve for the full period of six years. In the alphabetical order of the French names these countries are Germany, the United States of America, Austria-Hungary, France, Great Britain, Italy, Japan, and Russia. The remaining seven judges are appointed for a like period of six years, but exercise their functions as judge within a shorter period, the length of active service depending largely upon the commercial and maritime importance of the various nations, their supposed interest in the questions likely to come before the court, and the frequency with which they may appear as suitors. The exact manner in which and the periods during which all the other

judges shall be called to exercise their functions appear from the table annexed to the convention and made a part thereof. (Art. 15.) Any classification is bound to be more or less arbitrary, and its acceptance demands no little sacrifice on the part of the State which possesses less than the full representation. It was felt that the continuous presence in the court of judges representing the eight States mentioned would form a nucleus of trained judges and that the weight and authority of these judges based upon training and experience would counterbalance the disadvantage of the changes introduced in the court by the successive participation of representatives of different countries.

As the proposed court is to be international and is to be established primarily to settle peaceably and by judicial methods controversies arising between State and State involving the validity of capture, the sovereign States whose interests are involved in the controversy may appear before the prize court just as such sovereign States in other than prize matters may and do actually appear before an arbitration tribunal. It may thus be that sovereign States will ordinarily be parties plaintiff and defendant.

It may, however, happen that a State does not wish to espouse the cause of its citizen, although convinced that an injustice has been committed. In such a case it would seem to be eminently proper that the injured individual should himself appear before the court and litigate the question. The fourth article of the convention invests an individual claimant with such right; but, less the exercise of the right may prove embarrassing to the State, the same article makes this right depend upon the permission of the State whereof the claimant is a subject or citizen, and acknowledges the right of such State either to prevent his appearance or to appear on behalf of such subject or citizen. It is thus seen that whether the State is party litigant or not, it reserves fully the right to control the litigation.

The jurisdiction of the proposed court is dealt with in article 7, the translation of which is as follows:

If the question of law to be decided is provided for by a convention in force between the belligerent captor and the Power which is itself a party to the controversy or whose citizen or subject is a party thereto, the International Court shall conform to the stipulation of the said convention.

In the absence of such stipulations, the International Court shall apply the rules of international law. If generally recognized rules do not exist, the court shall decide in accordance with general principles of justice and equity.

The foregoing provisions shall apply with regard to the order of admission of evidence as well as to the means which may be employed in adducing it.

If, in accordance with article 3, No. 2 c, the appeal is based on the violation of a legal provision enacted by the belligerent captor, the court shall apply this provision.

The court may leave out of account statutes of limitation barring procedure according to the laws of the belligerent captor, in case it considers that the consequences thereof would be contrary to justice and equity.

It can not be denied that the question of the jurisdiction of the court is not only of general interest, but of fundamental importance to the contracting parties. The first clause of the article calls attention to conventional stipulations which, if establishing rules of law, shall be binding upon the court in controversies between parties to the convention. It was hoped that the provisions of prize law likely to give rise to controversies would be codified by the Conference and that, therefore, there would be a conventional law prescribed by

the Conference for the proposed court. A general agreement was not, however, reached.

The jurisdiction of the court, as set forth in article 7, was proposed by Great Britain, and accepted by the Conference as interpreted by the learned and distinguished reporter, Mr. Louis Renault, from whose elaborate report the following weighty passages are quoted as the best contemporary interpretation of the article:

What rules of law will the new prize court apply?

This is a question of the greatest importance, the delicacy and gravity of which can not be overlooked. It has often claimed the attention of those who have thought of the establishment of an international jurisdiction on the subject we are considering.

If the laws of maritime warfare were codified, it would be easy to say that the international prize court, the same as the national courts, should apply international law. It would be a regular function of the international court to revise the decisions of the national courts which had wrongly applied or interpreted the international law. The international courts and the national courts would decide in accordance with the same rules, which it would be supposed ought merely to be interpreted more authoritatively and impartially by the former courts than by the latter. But this is far from being the case. On many points, and some of them very important ones, the laws on maritime warfare are still uncertain, and each nation formulates them according to its ideas and interests. In spite of the efforts made at the present Conference to diminish these uncertainties, one can not help realizing that many will continue to exist. A serious difficulty at once arises here.

It goes without saying that where there are rules established by treaty, whether they are general or are at least common to the nations concerned in the capture (the captor nation and the nation to which the vessel or cargo seized belongs), the international court will have to conform to these rules. Even in the absence of a formal treaty, there may be a recognized customary rule which passes as a tacit expression of the will of the nations. But what will happen if the positive law, written or customary, is silent? There appears to be no doubt that the solution dictated by the strict principles of legal reasoning should prevail. Wherever the positive law has not expressed itself, each belligerent has a right to make his own regulations, and it can not be said that they are contrary to a law which does not exist. In this case, how could the decision of a national prize court be revised when it has merely applied in a regular manner the law of its country, which law is not contrary to any principle of international law? The conclusion would therefore be that in default of an international rule firmly established, the international court shall apply the law of the captor.

Of course it will be easy to offer the objection that in this manner there would be a very changeable law, often very arbitrary and even conflicting, certain belligerents abusing the latitude left them by the positive law. This would be a reason for hastening the codification of the latter in order to remove the deficiencies and the uncertainties which are complained of and which bring about the difficult situation which has just been pointed out.

However, after mature reflection, we believe that we ought to propose to you a solution, bold to be sure, but calculated considerably to improve the practice of international law. "If generally recognized rules do not exist, the court shall decide according to the *general principles of justice and equity*." It is thus called upon to *create the law* and to take into account other principles than those to which the national prize court was required to conform, whose decision is assailed by the international court. We are confident that the judges chosen by the Powers will be equal to the task which is thus imposed upon them, and that they will perform it with moderation and firmness. They will interpret the rules of practice in accordance with justice without overthrowing them. A fear of their just decisions may mean the exercise of more wisdom by the belligerents and the national judges, may lead them to make a more serious and conscientious investigation, and prevent the adoption of regulations and the rendering of decisions which are too arbitrary. The judges of the international court will not be obliged to render two decisions contrary to each other by applying successively to two neutral vessels seized under the same conditions different regulations established by the two belligerents. To sum up, the situation created for the new prize court will greatly resemble the condition which has long existed in the courts of countries where the laws, chiefly customary, were still rudimentary. These courts made the law at the same time that they applied it, and their decisions constituted *precedents*, which become an important source of the law. The most essential thing is to have judges who inspire perfect confidence. If, in order to

have a complete set of international laws, we were to wait until we had judges to apply it, the event would be a prospective one which even the youngest of us could hardly expect to see. A scientific society, such as the *Institute of International Law*, was able, by devoting twelve years to the work, to prepare a set of international regulations on maritime prizes in which the organization and the procedure of the international court have only a very limited scope. The community of civilized nations is more difficult to set on foot than an association of jurists; it must be subject to other considerations or even other prejudices, the reconciliation of which is not so easy as that of legal opinions. Let us therefore agree that a court composed of eminent judges shall be entrusted with the task of supplying the deficiencies of positive law until the codification of international law regularly undertaken by the Governments shall simplify their task.

The ideas which have just been set forth will be applicable with regard to the order of admission of evidence as well as to the means which may be employed in gathering it. In most countries arbitrary rules exist regarding the order of admission of evidence. To use a technical expression, upon whom does the burden of proof rest? To be rational one would have to say that it is the captor's place to prove the legality of the seizure that is made. This is especially true in case of a violation of neutrality charged against a neutral vessel. Such a violation should not be presumed. And still the captured party is frequently required to prove the nullity of the capture, and consequently its illegality, so that in case of doubt it is the captured party (the plaintiff) who loses the suit. This is not equitable and will not be imposed upon the international court.

What has just been said regarding the order of evidence also applies to the means of gathering it, regarding which more or less arbitrary rules exist. How can the nationality, ownership, and the domicile be proven? Is it only by means of the ship's papers, or also by means of documents, produced elsewhere? We believe in allowing the court full power to decide.

Finally, in the same spirit of broad equity, the court is authorized not to take into account limitations of procedure prescribed by the laws of the belligerent captor, when it deems that the consequences thereof would be unreasonable. For instance, there may be provisions in the law which are too strict with regard to the period for making appeal or which enable a relinquishment of the claim to be too easily presumed, etc.

There is a case in which the international court necessarily applies simply the law of the captor, namely, the case in which the appeal is founded on the fact that the national court has violated a legal provision enacted by the belligerent captor. This is one of the cases in which a subject of the enemy is allowed to appeal. (Art. 3, No. 2 c, at end.)

Article 7 which has thus been commented upon, is an obvious proof of the sentiment of justice which animates the authors of the draft, as well as of the confidence which they repose in the successful operation of the institution to be created.

The expediency of the establishment of the prize court must naturally be determined by those entrusted with such matters. The question of the constitutionality of the proposed international court of prize as a treaty court would seem to be precluded by the decision of the Supreme Court of the United States in *Re Ross* (140 U. S., 453). Indeed it would seem that that may well be done generally which may be done singly or individually and that the submission of prize cases to an international court of appeal definitively constituted and in session is a wiser, safer, and more commendable practice than to submit questions of prize law to a mixed commission which may, as happened in the past, decide contrary to the Supreme Court of the United States.

In view, therefore, of the advantages of a permanent court to which an appeal may be taken, and in view of the guaranteed impartiality of an international decision, composed as the court would be in large majority by neutrals, and in view also of the determined policy of the United States to remain a neutral in all international conflicts, it would seem that we need scarcely fear the reversal of the decisions of our courts because such decisions presuppose a war to which we are a party. The existence of the court offers our citizens an international

forum in which to safeguard their interests as neutral buyers and carriers in all parts of the world. The American delegation, therefore, not only approved and signed the convention, but proposed it jointly with Germany, Great Britain, and France.

XIII.—CONVENTION CONCERNING THE RIGHTS AND DUTIES OF NEUTRAL POWERS IN CASE OF MARITIME WAR.

This convention deals with the important subject of maritime neutrality and formulates the progress which has been made in that subject in the past half century. It is stated in the preamble that the convention is incomplete; in view of the extent of the field to be covered and the sharply conflicting interests that are involved, a complete treatment of the subject was hardly to be expected. The convention therefore properly contains the suggestion that, in giving effect to its requirements, the rules of international law shall be regarded as supplementing the provisions of the convention. Neutrals are advised that any rules which they may apply, or any measures to which they may resort with a view to the enforcement of their neutral rights or the fulfillment of their neutral obligations, shall be uniformly applied to all belligerents, and shall not be changed during the progress of a particular war.

Out of an abundance of caution the enacting clause contains a provision that the requirements of the convention shall not be regarded as encroaching upon the requirements of existing treaties. In other words, an undertaking like the Black Sea treaty, containing provisions in regard to the passage of war ships through the Dardanelles, is not modified or abrogated by the requirements of the foregoing convention.

The proposition advanced by England represented the strict views of neutral rights and duties which are held by States maintaining powerful naval establishments, supplemented by a widely distributed system of coaling stations and ports of call, in which their merchant vessels could find convenient refuge at the outbreak of war and which enable them to carry on operations at sea quite independently of a resort to neutral ports for the procurement of coal or other supplies or for purposes of repair. As the policy of the United States Government has generally been one of strict neutrality, the delegation found itself in sympathy with this policy in many, if not most, of its essential details. France for many years past has taken a somewhat different view of its neutral obligations, and has practiced a liberal, rather than a strict, neutrality. The views of France in that regard have received some support from the Russian delegation and were favored to some extent by Germany and Austria.

It was constantly borne in mind by the delegation, in all deliberations in committee, that the United States is, and always has been, a permanently neutral Power, and has always endeavored to secure the greatest enlargement of neutral privileges and immunities. Not only are its interests permanently neutral, but it is so fortunately situated, in respect to its military and naval establishments, as to be able to enforce respect for such neutral rights and obligations as flow from its essential rights of sovereignty and independence.

With a view, therefore, to secure to neutral States the greatest possible exemption from the burdens and hardships of war, the dele-

gation of the United States gave constant support to the view that stipulations having for that purpose the definition of the rights and duties of neutrals should, as a rule, take the form of restrictions and prohibitions upon the belligerents, and should not, save in case of necessity, charge neutrals with the performance of specific duties. This rule was only departed from by the delegation in cases where weak neutral Powers demanded, and need, the support of treaty stipulations in furtherance of their neutral duties. It was also borne in mind that a State resorting to certain acts with a view to prevent violations of its neutrality derives power to act from the fact of its sovereignty, rather than from the stipulations of an international convention.

The first two articles and the first paragraph of article 3 of the convention represent in substance the existing rule of international law on the subjects of which they treat. The second paragraph of article 3 shifts the obligation from the neutral to the captor, who is bound upon request of the neutral to return the prize captured improperly in neutral waters. The neutral, however, is not obligated to make the demand, and it may thus happen that a powerful captor violates neutral waters without protest from the neutral. It may well be that the spirit of the article imposes the duty upon the neutral; the letter does not. The article seems, therefore, to be objectionable.

Article 5 embodies the second of the rules adopted in the treaty of Washington for the guidance of the Geneva Tribunal, to which is added a prohibition respecting the establishment of wireless-telegraph stations on neutral territory. Article 6 is new and forbids a neutral State, as such, to transfer vessels or munitions of war to a belligerent. Article 7 embodies the existing rule of international law which charges a State with no duty of forbidding the exportation from or transit of war material through its territory in time of war. Article 8 embodies the first of the rules of the treaty of Washington for the guidance of the Geneva Tribunal.

Article 9 is a correct statement of the existing rule of impartiality in the dealings of neutral States with belligerents. The right to forbid access to its ports to a vessel which has failed or neglected to conform to the orders of the neutral State, or has violated its neutrality, is generally conceded:

Article 10 is new in conventional form, and authorizes the passage of an armed vessel or prize through territorial waters. In the absence of restrictive language this would seem to include straits which connect bodies of water which are open to public navigation. It also recognizes the fact that such mere passage through any territorial waters, provided no acts of hostility are committed, does not compromise the neutrality of the State to which they belong. The requirement of the enacting clause, that the provisions of existing treaties are not abrogated or modified by the convention, applies to this article. It may be noted, in passing, that the rule established in article 10 is substantially the same, in so far as free passage is concerned, as the rules prescribed by treaty in connection with the passage of the Suez and Panama canals by public armed vessels in time of war.

The stipulations in respect to the use of licensed pilots (art. 11), the twenty-four hours rule (articles 12 and 13), and the length of sojourn to repair damages stand in need of no comment.

Article 15 is new and is intended to prevent a neutral port from being made either a base of hostile operations or a place of assembly for the fleets of a belligerent. To that end a neutral may restrict at discretion the number of belligerent ships, including auxiliary vessels, that may enjoy its hospitality at any one time. In default of such rule, the number of ships of war or auxiliary vessels that may be in a particular neutral port at the same time is fixed at three.

Article 19 is an extremely important one. It provides that:

ART. 19. Belligerent vessels of war can not revictual in neutral ports and roads except to complete their normal supplies in time of peace.

Neither can these vessels take on board fuel except to reach the nearest port of their own country. They may, however, take on the fuel necessary to fill their bunkers, properly so called, when they are in the waters of neutral countries which have adopted this method of determining the amount of fuel to be furnished.

If, according to the rules of the neutral Power, vessels can only receive coal 24 hours after their arrival, the lawful duration of their sojourn shall be prolonged 24 hours.

ART. 20. Belligerent vessels of war which have taken on board coal in the port of a neutral Power, can not renew their supply within three months in a port of the same Power.

The great Powers of the world are susceptible of being grouped into two classes in the matter of neutral policy. England, having great naval power, supplemented by an extensive system of coaling stations and commercial ports, has always favored and practiced a policy of strict neutrality. France, less powerful at sea, having few naval stations and with few distant colonial possessions, has been more liberal in the enforcement of its neutral obligations, and has allowed considerable aid to be extended to belligerent vessels in its ports. As England has treated both belligerents with impartial strictness, France has treated them with impartial liberality. With this view Russia and, to some extent, Germany and Austria are in sympathy. As has been seen, the policy of the United States has been in the main similar to that of Great Britain.

In the matter of coal the English delegation proposed that the amount of coal which a belligerent vessel might obtain in a neutral port should be restricted to quarter bunkers. The substantial operation of this rule would be that any public armed vessel that entered a neutral port short of coal would have to be interned until the close of the war, as it would be impossible, in a majority of cases, to reach a home port with so meagre an allowance of coal as quarter-bunker capacity. This proposition was rejected, as were a number of suggestions based upon bunker capacity, condition of bottoms, etc., which were so complicated as to be practically impossible in their application.

The result was to reach the compromise which is stated in article 19, as to which it may be said that the liberal States have yielded rather more than those whose policy is one of strict neutrality. The article represents, it would seem, the most satisfactory conclusion possible for the Conference to reach.

Articles 21 to 25 relate to the admission of prizes to neutral ports. Articles 21 and 22 seem to be unobjectional. Article 23 authorizes the neutral to permit prizes to enter its ports and to remain there pending action on their cases by the proper prize courts. This is objectionable for the reason that it involves a neutral in participation in the war to the extent of giving asylum to a prize which the belligerent may not be able to conduct to a home port. This article repre-

sents the revival of an ancient abuse and should not be approved. In this connection it is proper to note that a proposition absolutely forbidding the destruction of a neutral prize, which was vigorously supported by England and the United States, failed of adoption. Had the proposition been adopted, there would have been some reason for authorizing such an asylum to be afforded in the case of neutral prizes.

Article 24 covers the case of the internment of a public armed vessel in a neutral port, and vests sufficient authority in the neutral to insure respect for its sovereign rights and obligations.

Article 25 is a restatement of the third of the rules of the Treaty of Washington, and as such is worthy of adoption.

Article 26 was inserted in the interest of the weaker naval Powers, and contains a stipulation that an exercise of its rights by a neutral State, involving possibly a resort to force, shall not be regarded as an unfriendly act by either belligerent.

Article 27 contemplates a mutual exchange of laws, ordinances, regulations, and other authoritative utterances of the respective Governments in respect to the conduct of belligerent vessels of war in their ports and waters. These are to be transmitted to the Dutch Government and by that Government to the other contracting parties.

This convention was made the subject of reservation at the plenary session of the Conference and was not signed by the American delegation. This was done in order to enable the Department to determine whether, all things considered, it was proper or expedient to subject the performance of its neutral rights and duties to some measures of conventional regulation.

By way of recapitulation: The second paragraph of article 3 and article 23 should not be approved. As to article 19, covering the question of coal supply, it can only be said that it represents a compromise of very divergent interests, and that practice under it in the future will be substantially the same as in the past.

The Naval Delegate of the United States expressed the following opinion:

The lack of conventional agreements regulating the exercise of neutrality has more than once threatened to involve the whole world in war and perhaps the rules adopted by this Conference, if they are unanimously approved by the maritime Powers, might be accepted as possibly promoting peace, since practically they certify the right of neutrals to do as they please within very wide limits without fear of reclamation, but there is no question that they are not in accord either with the practice of the United States or with its strategic situation.

A careful examination of the convention as a whole and in all its parts leads to the conclusion that its ratification is in the interest of neutral Powers, but that in such ratification it is suggested that the second paragraph of article 3 and article 23 be rejected.

XIV.—DECLARATION FORBIDDING THE LAUNCHING OF PROJECTILES FROM BALLOONS.

This declaration consists of but a single article, the essential portion of which follows:

The Contracting Parties agree to prohibit, for a period extending to the close of the Third Peace Conference, the discharge of projectiles and explosives from balloons or by other new methods of a similar nature.

The declaration was a reenactment of the analogous provision of the First Conference, which, however, being for a period of five years, had elapsed. In order to prevent the lapse of the present declaration, it was provided that it should remain in effect until the end of the Third Conference.

DECLARATION CONCERNING OBLIGATORY ARBITRATION.

The Conference was unable to agree upon a general treaty of arbitration, although a large majority expressed itself in favor of a general treaty of arbitration, reserving therefrom questions concerning the independence, vital interests, and honor, and setting forth a list of concrete subjects in which the contracting Powers were willing to renounce the honor clause. The principle of obligatory arbitration was unanimously admitted in the abstract, but when it was proposed to incorporate this principle in a concrete case or series of cases insurmountable difficulties arose. Some Powers seemed willing to conclude arbitration treaties with certain other carefully selected Powers, but were unwilling to bind themselves with the remaining nations of the world. Other nations were willing to renounce the honor clause in some subjects but not in others. It seemed to the friends of arbitration feasible to do generally in a single instrument what they had agreed to do in separate treaties with various countries. The majority felt that it was desirable to conclude at The Hague a general arbitration treaty binding those who were willing to be bound, without seeking, directly or indirectly, to coerce the minority, which was unwilling to bind itself. The minority, however, refused to permit the majority to conclude such a treaty, invoking the principle of unanimity or substantial unanimity for all conventions concluded at The Hague. In the interest of conciliation the majority yielded, although it did not share the point of view of the minority. The minority on its part recognized unequivocally and unreservedly the principle of obligatory arbitration, and the following declaration was unanimously accepted and proclaimed by the Conference:

The conference, conforming to the spirit of good understanding and reciprocal concessions which is the very spirit of its deliberations, has drawn up the following Declaration, which, while reserving to each one of the Powers represented the benefit of its votes, permits them all to affirm the principles which they consider to have been unanimously accepted.

It is unanimous:

1. In accepting the principle for obligatory arbitration.
2. In declaring that certain differences, and notably those relating to the interpretation and application of international conventional stipulations, are susceptible of being submitted to obligatory arbitration without any restrictions.

The friends of arbitration were bitterly disappointed and the American delegation abstained from voting on the declaration; first, because it seemed to be an inadmissible retreat from the advanced position secured by an affirmative vote of four to one in favor of the arbitration convention, and, second, lest an affirmative vote be construed to indicate both an approval of the arguments or methods of the minority as well as of the withdrawal of the proposed treaty. It may be admitted that the establishment of the principle of obligatory arbitration is an advance. It is not, however, the great advance so earnestly desired; for a concrete treaty embodying the

principle of obligatory arbitration would have been infinitely more valuable than the declaration of obligatory arbitration, however solemnly made.

RESOLUTION CONCERNING THE LIMITATION OF MILITARY CHARGES.

It is familiar knowledge that the First Peace Conference was called primarily to "secure a possible reduction of the excessive armaments which weigh upon all nations," and in the programme contained in the second Russian circular (January 11, 1899) one of the purposes was stated to be "to reach an understanding not to increase for a fixed period the present effective of the armed military and naval forces, and at the same time not to increase the budgets pertaining thereto, and a preliminary examination of the means by which a reduction might even be effected in the future in the forces and budgets above mentioned." The First Conference failed to agree upon a limitation or a restriction, but adopted unanimously the following resolution:

The Conference is of opinion that the restriction of military charges, which are at present a heavy burden on the world, is extremely desirable for the increase of the material and moral welfare of mankind.

The Second Conference was equally unprepared to limit armaments, to place a restriction upon military or naval forces, or to bind the nations not to increase the budgets pertaining thereto. It will be remembered that the United States reserved the right to bring the question to discussion, although as such it did not figure on the programme. Pursuant to this reservation and instructions from the Secretary of State the American delegation insisted that the subject be discussed and in and out of Conference lent it support. By general agreement a resolution was introduced, supported in an address by the first British delegate and in a letter written by the first American delegate on behalf of the delegation. The following resolution was thereupon unanimously adopted:

The Second Peace Conference confirms the resolution adopted by the Conference of 1899 in regard to the limitation of military burdens; and in view of the fact that military burdens have considerably increased in nearly all countries since the said year, the Conference declares that it is highly desirable to see Governments take up again the serious study of that subject.

THE RECOMMENDATIONS OF THE CONFERENCE.

In addition to the conventions, declarations, and resolution, the Conference emitted five desires or *vœux*, the first of which is in the nature of a resolution. Of each of these in turn—

The Conference recommends to the signatory Powers the adoption of the project hereunto annexed, of a convention for the establishment of a court of arbitral justice and its putting in effect as soon as an accord shall be reached upon the choice of the judges and the constitution of the court.

An analysis of this paragraph shows that the establishment of the court is not the expression of a mere wish or desire on the part of the Conference, but that it is a recommendation to the Powers to undertake the establishment of the court. In the next place, the project of convention annexed to the recommendation is not to be submitted as a plan or as a model, but for adoption as the organic act

of the court. Again, the convention annexed and made a part of the recommendation goes forth not only with the approval of the Conference but as a solemn act adopted by it. And, finally, accepting the convention as the organic act, the Conference recommends that the court be definitely and permanently established by the Powers as soon as they shall have agreed upon a method of appointing the judges, who, when appointed, thus constitute the court. It will be noted that the number of Powers necessary to establish the court is not stated, nor is the number of judges determined. It follows, therefore, that the Powers wishing to establish the court are free to adopt the project of convention, agree upon the method of choosing the judges, and establish the court at The Hague for the trial of cases submitted by the contracting Powers.

The establishment of the court of arbitral justice would not interfere with the court of arbitration instituted by the Conference of 1899, and continued by the Conference of 1907, for this latter is a temporary tribunal, erected for a particular purpose, to decide as arbiters a controversy submitted. The court of arbitral justice, on the contrary, is meant to be a permanent court, composed of judges acting under a sense of judicial responsibility, representing the various legal systems of the world, and capable of assuring the continuity of arbitral jurisprudence. (Art. 1.) The contracting Powers are free to appoint either a large or a small number of judges; but it is provided in article 3 that the judges so appointed shall hold office for a period of twelve years and that they shall be chosen from among persons enjoying the highest moral consideration who meet the requirements for admission in their respective countries to the high magistracy, or who shall be jurists of recognized competency in matters of international law. (Art. 2.)

From these provisions it is evident that the proposed institution is to be not merely in name but in fact a court of justice; that it is to be permanent in the sense that it does not need to be constituted for any and every case submitted to it. It is obvious that such a court, acting under a sense of judicial responsibility, would decide, as a court, according to international law and equity, a question submitted to it, and that the idea of compromise hitherto so inseparable from arbitration, would be a stranger to this institution. The court is said to be permanent in the sense that it holds, as courts do, certain specified terms for the trial of cases. For example, article 14 says:

The Court assembles in session once a year. The session begins on the third Wednesday of June and lasts until the calendar shall have been exhausted.

The Court does not assemble in session if the meeting is deemed unnecessary by the delegation. If, however, a Power is a party to a case actually pending before the court, the preliminary proceedings of which are completed or near completion, that Power has the right to demand that the session take place.

The delegation may, in case of necessity, call an extraordinary session of the Court.

It was deemed inexpedient to have an empty court at The Hague, and it was felt that without a judicial committee capable of transacting the ordinary business that might be submitted permanency in the true sense of the word would be lacking, therefore it is provided by article 6 of the project that—

The Court designates, every year, three judges who constitute a special delegation and three others who are to take their places in case of disability. They may be reelected. The vote is cast by blanket ballot. Those who obtain the larger number

of votes are considered to be elected. The delegation elects its own president, who, failing a majority, is drawn by lot.

A member of the delegation is barred from the exercise of his functions when the Power by which he was appointed and under whose jurisdiction he is one of the parties to the case.

The members of the delegation bring to a conclusion the cases that may have been referred to therein, even though their term of office should have expired.

† Taking the two articles together, it is apparent that the court as such is intended to be permanently in session at The Hague; that the judicial committee will attend to the smaller cases submitted, and that the full court will meet in ordinary or extraordinary session once a year or whenever the business before it would justify its assembling. The judges are intended to be permanent court officials and as such to receive stated salaries whether they are actively engaged at The Hague in the trial of cases or not. The compensation is small (six thousand florins), but the honor is great. If, however, a judge sits as a trial judge at The Hague, his expenses to and from The Hague are paid according to the rate allowed in the home country for the traveling expenses of a judge in service, and in addition the judge is to receive the further sum of one hundred florins a day during his official service in the examination or trial of cases.

The first article speaks of a court free and easy of access. It is easy of access because it is permanent and has stated terms. It is free because no fees are paid for entrance, and it is likewise free in this sense: That the salaries of the judges are not paid by the litigating parties, but proportionately by the contracting Powers. The jurisdiction of the court is very wide; for example, "the court of arbitral justice is competent to decide all cases which are submitted to it by virtue of a general stipulation of arbitration or by a special agreement" (art. 17); that is to say, if there be a general treaty of arbitration designating the court of arbitral justice, the court is competent, if the cause of action be presented, to assume jurisdiction and to decide the case. It may be that parties to a controversy may submit the finding of a commission of inquiry to the court in order to have the legal responsibility established in an appropriate case, or it may be that parties to an arbitration may wish to have the case examined when on appeal or *de novo* by the court of arbitral justice. In such a case, by virtue of the special agreement of the parties litigant, the court is invested with jurisdiction.

It was not thought advisable to clothe the judicial committee with the jurisdiction of the full court, lest there be two competing institutions. The judicial committee is, however, expected to be a serviceable body, and its jurisdiction is commensurate with its dignity. For example, article 18 provides:

The delegation (article 6) is competent—

1. To hear arbitration cases coming under the foregoing article, if the parties agree upon demanding the application of summary procedure as determined in Title IV, Ch. IV, of the Convention of July 29, 1899.

2. To institute an inquiry by virtue of and in conformity to Title III of the Convention of July 29, 1899, in so far as the delegation may have been charged with this duty by the litigants acting in common accord. With the assent of the parties and in derogation of article 7, section 1, members of the delegation who took part in the inquiry may sit as judges if the dispute comes for arbitration before either the court or the delegation itself.

The judicial committee, therefore, is competent to sit as the court of summary proceeding in cases where parties litigant agree to make

use of the summary proceeding of the revised convention. It is likewise competent to sit as a commission of inquiry; and as the commission of inquiry finds facts, there seems to be no reason why the members of the judicial committee may not sit as judges if the litigation is submitted to the full court or to the delegation.

Article 19 invests the judicial committee with the power to frame the special agreement—that is to say, the *compromis* provided for in article 52 of the convention for the peaceful adjustment of international differences, already mentioned—unless there be an agreement or stipulation to the contrary.

The procedure of the court has not been neglected, but finds an appropriate place in the project of convention.

The establishment of the Permanent Court was proposed by the American delegation, was accepted in principle and loyally supported by the delegations of Germany and Great Britain, and the project actually framed and recommended by the Conference is the joint work of the American, German, and British delegations. It should be said, however, that the project could not have been adopted without the loyal and unstinted support of France.

From this brief exposition it is evident that the foundations of a Permanent Court have been broadly and firmly laid; that the organization, jurisdiction, and procedure have been drafted and recommended in the form of a code which the Powers or any number of them may accept and, by agreeing upon the appointment of judges, call into being a court at once permanent and international. A little time, a little patience, and the great work is accomplished.

The nature and purpose of the second and third *vœux* of the Conference can not well be expressed in more precise and apt terms than those used by the military delegate in his report of the proceedings of the second commission. The following paragraphs, therefore, are taken from such report:

It has been seen that both the committee and the Conference finally rejected a proposition which had been prepared with a view to minimize the effects of war upon neutral commerce and in conformity with the tendencies of modern industry and trade, which demand for their development and maintenance the widest markets and which are in the highest degree sensitive to the disturbing effects of war.

The German proposition, by protecting stocks of goods in the hands of neutral agents in belligerent territory from seizure or requisition, was calculated to give to neutral undertakings the broadest immunity from belligerent interference by restricting the burdens and operations of war to the belligerent States and their subjects. But the proposition so conceived and submitted was dismissed with the following expression of desire, which may be accepted as showing the importance which is attached to the development of modern industry and commerce by a majority of the Governments of the civilized world:

The Conference expresses the hope—

I. That in case of war the competent authorities, civil and military, should make it their special duty to assure and protect the commercial and industrial relations between the belligerent Powers and neutral States.

II. That the high (signatory) Powers should seek to establish in agreements with each other uniform contractual undertakings determining, in respect to military burdens, the relations of each State in respect to the strangers established in its territory.

The fourth *vœu* of the Conference is as follows:

4°. The Conference utters the wish that the elaboration of regulations relative to laws and customs of maritime warfare may figure in the programme of the next Conference, and that in any case the Powers apply, as far as possible, to maritime warfare the principles of the convention relative to the laws and customs of war on land.

Its adoption was due to the inability of the Conference to codify the law of maritime warfare as the Conference of 1899 had codified the laws and customs of war on land. The reasons for this failure need not be set forth, because the "desire" of the Conference is that the regulation of the laws and customs of maritime warfare be included in the programme of the Third Conference. The concluding portion of the desire is in the nature of a recommendation, namely, that the Powers apply as far as possible to naval warfare the principles of the laws and customs of warfare on land. It is likewise unnecessary to discuss this phrase, as it is not binding upon any Power so to do, and the measure of the application naturally depends upon the judgment of each of the Powers.

The final desire of the Conference is in the nature of a recommendation and is as follows:

Lastly, the Conference recommends to the Powers the holding of a third Peace Conference which might take place within a period similar to that which has elapsed since the preceding Conference on a date to be set by joint agreement among the Powers, and it draws their attention to the necessity of preparing the labors of that Third Conference sufficiently in advance to have its deliberations follow their course with the requisite authority and speed.

In order to achieve that object the Conference thinks it would be very desirable that a preparatory committee be charged by the Governments about two years before the probable date of the meeting, with the duty of collecting the various propositions to be brought before the Conference, to seek out the matters susceptible of an early international settlement, and to prepare a programme which the Governments should determine upon early enough to permit of its being thoroughly examined in each country. The committee should further be charged with the duty of proposing a mode of organization and procedure for the Conference itself.

The desire of the friends of progress is to have The Hague Conference a permanent institution, which meets at certain regular periods, automatically if possible, and beyond the control of any one Power. The American delegation was instructed to secure, if possible, this result, and through the efforts of the American delegation this result was reached in large measure. It is difficult, if not impossible, for one legislative body to bind its successor. It is doubly difficult for a quasi-legislative or diplomatic assembly to bind a succeeding assembly. It was therefore thought advisable not to attempt to fix the date absolutely, but to recommend that a Third Conference meet within or at about the period which has elapsed between the calling of the First and the assembling of the Second Conference, leaving the exact date to be fixed by the Powers.

Experience has shown that much time is lost not merely in organizing a conference, but in preparing and presenting the various projects. It is desirable that the projects be prepared in advance so that they may be presented, printed, and distributed at the opening of the session. This the Conference recommended. But to prepare the various propositions to be submitted to the Conference it is necessary to determine in advance, at least tentatively, the programme. The Conference therefore recommended that some two years before the probable date of the Conference a preparatory committee be charged by the various Governments to collect propositions, to ascertain the matters susceptible of international regulation, and to prepare the programme sufficiently in advance of the meeting that it may be seriously and maturely considered by each Government intending to take part.

The wisdom of these provisions is so apparent that any justification of them seems unnecessary. The last clause, however, can not be passed in silence, as its importance is fundamental; for, in simple terms, it means that the Conference is not to be organized or the method of procedure determined by any single Power. In other words, the Conference, it would seem, is to be given over to itself. The committee of the Powers is charged with the duty of proposing a mode of organization and procedure for the Conference, and it can not be doubted that the committee, consisting of leading and representative Powers, will propose a mode of organization and procedure which will permit the Conference to organize itself and conduct its proceedings without requiring the guidance and direction of any particular Power. Its officers may be elected by the Conference, rather than appointed, and if so elected or selected by the Conference it is safe to assume that they will be not only in harmony with its purposes, but in full sympathy with the spirit of the Conference. In any case the recommendation is of the greatest importance, because it shows a unanimous desire on the part of the Powers present for the calling of a Third Conference, and it indicates in no uncertain terms that the Conference in becoming in the largest sense international is not to be under the control or predominance of any one nation.

Such is, in brief, the work of the Second International Peace Conference. It is believed that the various measures adopted by it and recommended to the favorable consideration of the Powers will meet with general approval. It is hoped that the reasons set forth, briefly, in the present report may justify the delegates in signing the various measures and that their action as a whole may meet with the approval of the Secretary of State.

We have the honor to be, sir, your obedient servants,

JOSEPH H. CHOATE, *Chairman.*
CHANDLER HALE, *Secretary.*

MESSAGE

FROM THE

PRESIDENT OF THE UNITED STATES,

TRANSMITTING

THE CONVENTIONS AND DECLARATION SIGNED BY THE DELEGATES OF THE UNITED STATES TO THE SECOND INTERNATIONAL PEACE CONFERENCE HELD AT THE HAGUE FROM THE 15TH OF JUNE TO THE 15TH OF OCTOBER, 1907.

To the Senate:

I transmit, with a view to receiving the advice and consent of the Senate to ratification, the conventions and declaration signed by the delegates of the United States to the Second International Peace Conference held at The Hague from June 15 to October 18, 1907, together with a report by the Secretary of State and other accompanying papers.

The attention of the Senate is invited to the recommendations made by the Secretary of State, in which I concur.

THEODORE ROOSEVELT.

THE WHITE HOUSE,
February 27, 1908.

The PRESIDENT:

I submit for your consideration and for transmission to the Senate, should you deem it proper to do so, with a view to obtaining the advice and consent of that body to ratification, the following conventions and declaration signed by the delegates of the United States to the Second International Peace Conference held at The Hague from the 15th of June to the 18th of October, 1907:

Convention for the Pacific Settlement of International Disputes.

Convention respecting the Limitation of the Employment of Force for the Recovery of Contract Debts.

Convention relative to the Opening of Hostilities.

Convention respecting the Laws and Customs of War on Land.

Convention respecting the Rights and Duties of Neutral Powers and Persons in case of War on Land.

Convention relative to the Laying of Automatic Submarine Contact Mines.

Convention respecting Bombardment by Naval Forces in Time of War.

Convention for the Adaptation to Naval War of the Principles of the Geneva Convention.

Convention relative to certain Restrictions with regard to the Exercise of the Right of Capture in Naval War.

Convention relative to the Creation of an International Prize Court.

Declaration prohibiting the discharge of Projectiles and Explosives from Balloons.

I recommend that as to the convention for the peaceful adjustment of international differences, the ratification be subject to the following declaration:

In approving the convention for the Pacific Settlement of International Disputes, the United States exercises the option contained in article 53 of said Convention, to exclude the formulation of the *compromis* by the Permanent Court, and hereby expressly excludes from the competence of the Permanent Court the power to frame the *compromis* required by general or special treaties of arbitration concluded or hereafter to be concluded by the United States, and further expressly declares that the *compromis* required by any treaty of arbitration to which the United States may be a party shall be settled only by agreement between the contracting parties, unless such treaty shall expressly provide otherwise.

I submit also a convention concerning the rights and duties of neutral powers in naval war, voted for by a majority of the delegates, but which the American delegates at the Conference refrained from signing and reserved for further consideration. Upon careful consideration of this Convention, I recommend that the United States become a party thereto by formal adherence, reserving, however, and excluding from its assent the second paragraph of Article III, which is in the following words:

If the prize is not in the jurisdiction of the neutral power, the captor government, on the demand of that power, must liberate the prize with its officers and crew.

And reserving also and excluding from its assent Article XXIII, which is in the following words:

A neutral power may allow prizes to enter its ports and roadsteads, whether under convoy or not, when they are brought there to be sequestered pending the decision of a prize court. It may have the prize taken to another of its ports.

If the prize is convoyed by a war ship, the prize crew may go on board the convoying ship.

If the prize is not under convoy, the prize crew are left at liberty.

I transmit also as relevant and material to the consideration of these Conventions the following documents:

1. The Final Act of the Conference.
2. The instructions to the American delegates, including the 1899 instructions.
3. The report of the American delegates of the proceedings of the Conference and their participation therein.
4. Copies of the two Conventions signed by other delegates, but not signed by the American delegates, adherence to which is still open to the United States, but adherence to which is not now recommended.

Let me go beyond the limits of the customary formal letter of transmittal and say that I think the work of the Second Hague Conference, which is mainly embodied in these Conventions, presents the greatest advance ever made at any single time toward the reasonable and peaceful regulation of international conduct, unless it be the advance made at The Hague Conference of 1899.

The most valuable result of the Conference of 1899 was that it made the work of the Conference of 1907 possible. The achievements of the two Conferences justify the belief that the world has entered upon an orderly process through which, step by step, in successive Conferences, each taking the work of its predecessor as its point of departure, there may be continual progress toward making the practice of civilized nations conform to their peaceful professions.

Respectfully submitted.

ELIHU ROOT.

DEPARTMENT OF STATE,
Washington, February 26, 1908.

SETTLEMENT OF INTERNATIONAL DISPUTES.

A CONVENTION SIGNED BY THE DELEGATES OF THE UNITED STATES TO THE SECOND INTERNATIONAL PEACE CONFERENCE HELD AT THE HAGUE FROM JUNE 15 TO OCTOBER 18, 1907, FOR THE PACIFIC SETTLEMENT OF INTERNATIONAL DISPUTES.

FEBRUARY 27, 1908.—Read; convention read the first time and referred to the Committee on Foreign Relations, and, together with the message and accompanying papers, ordered to be printed in confidence for the use of the Senate.

APRIL 2, 1908.—Ratified.

1 His Majesty the German Emperor, King of Prussia; the Presi-
2 dent of the United States of America; the President of the Argen-
3 tine Republic; His Majesty the Emperor of Austria, King of
4 Bohemia, &c., and Apostolic King of Hungary; His Majesty
5 the King of the Belgians; the President of the Republic of Bo-
6 livia; the President of the Republic of the United States of Brazil;
7 His Royal Highness the Prince of Bulgaria; the President of the
8 Republic of Chile; His Majesty the Emperor of China; the Presi-
9 dent of the Republic of Colombia; the Provisional Governor of
10 the Republic of Cuba; His Majesty the King of Denmark; the
11 President of the Dominican Republic; the President of the Repub-
12 lic of Ecuador; His Majesty the King of Spain; the President of
13 the French Republic; His Majesty the King of the United King-
14 dom of Great Britain and Ireland and of the British Dominions
15 beyond the Seas, Emperor of India; His Majesty the King of
16 the Hellenes; the President of the Republic of Guatemala;
17 the President of the Republic of Haïti; His Majesty the King of
18 of Italy; His Majesty the Emperor of Japan; His Royal Highness
19 the Grand Duke of Luxemburg, Duke of Nassau; the President of
20 the United States of Mexico; His Royal Highness the Prince of
21 Montenegro; the President of the Republic of Nicaragua; His
22 Majesty the King of Norway; the President of the Republic of

1 Panamá; the President of the Republic of Paraguay; Her Majesty
2 the Queen of the Netherlands; the President of the Republic of
3 Peru; His Imperial Majesty the Shah of Persia; His Majesty the
4 King of Portugal and of the Algarves, &c.; His Majesty the
5 King of Roumania; His Majesty the Emperor of All the Russias;
6 the President of the Republic of Salvador; His Majesty the
7 King of Servia; His Majesty the King of Siam; His Majesty
8 the King of Sweden; the Swiss Federal Council; His Majesty the
9 Emperor of the Ottomans; the President of the Oriental Republic
10 of Uruguay; the President of the United States of Venezuela:

11 Animated by the sincere desire to work for the maintenance of
12 general peace;

13 Resolved to promote by all the efforts in their power the
14 friendly settlement of international disputes;

15 Recognizing the solidarity uniting the members of the society
16 of civilized nations;

17 Desirous of extending the empire of law and of strengthening
18 the appreciation of international justice;

19 Convinced that the permanent institution of a Tribunal of
20 Arbitration accessible to all, in the midst of independent Powers,
21 will contribute effectively to this result;

22 Having regard to the advantages attending the general and
23 regular organization of the procedure of arbitration;

24 Sharing the opinion of the august initiator of the International
25 Peace Conference that it is expedient to record in an Interna-
26 tional Agreement the principles of equity and right on which are
27 based the security of States and the welfare of peoples;

28 Being desirous, with this object, of insuring the better working
29 in practice of Commissions of Inquiry and Tribunals of Arbitra-
30 tion, and of facilitating recourse to arbitration in cases which
31 allow of a summary procedure;

32 Have deemed it necessary to revise in certain particulars and
33 to complete the work of the First Peace Conference for the pacific
34 settlement of international disputes;

35 The High Contracting Parties have resolved to conclude a new
36 Convention for this purpose, and have appointed the following
37 as their Plenipotentiaries:

38 [For names of Plenipotentiaries, see Final Act, Supra.]

1 Who, after having deposited their full powers, found in good
2 and due form, have agreed upon the following:—

3 PART I.—*The Maintenance of General Peace.*

4 ARTICLE I.

5 With a view to obviating as far as possible recourse to force in
6 the relations between States, the Contracting Powers agree to
7 use their best efforts to ensure the pacific settlement of inter-
8 national differences.

9 PART II.—*Good Offices and Mediation.*

10 ARTICLE II.

11 In case of serious disagreement or dispute, before an appeal
12 to arms, the Contracting Powers agree to have recourse, as
13 far as circumstances allow, to the good offices or mediation of
14 one or more friendly Powers.

15 ARTICLE III.

16 Independently of this recourse, the Contracting Powers deem
17 it expedient and desirable that one or more Powers, strangers
18 to the dispute, should, on their own initiative and as far as
19 circumstances may allow, offer their good offices or mediation
20 to the States at variance.

21 Powers strangers to the dispute have the right to offer good
22 offices or mediation even during the course of hostilities.

23 The exercise of this right can never be regarded by either of
24 the parties in dispute as an unfriendly act.

25 ARTICLE IV.

26 The part of the mediator consists in reconciling the opposing
27 claims and appeasing the feelings of resentment which may have
28 arisen between the States at variance.

29 ARTICLE V.

30 The functions of the mediator are at an end when once it is
31 declared, either by one of the parties to the dispute or by the
32 mediator himself, that the means of reconciliation proposed by
33 him are not accepted.

34 ARTICLE VI.

35 Good offices and mediation undertaken either at the request
36 of the parties in dispute or on the initiative of Powers strangers
37 to the dispute have exclusively the character of advice, and
38 never have binding force.

ARTICLE VII.

The acceptance of mediation cannot, unless there be an agreement to the contrary, have the effect of interrupting, delaying, or hindering mobilization or other measures of preparation for war.

If it takes place after the commencement of hostilities, the military operations in progress are not interrupted in the absence of an agreement to the contrary.

ARTICLE VIII.

The Contracting Powers are agreed in recommending the application, when circumstances allow, of special mediation in the following form:—

In case of a serious difference endangering peace, the States at variance choose respectively a Power, to which they intrust the mission of entering into direct communication with the Power chosen on the other side, with the object of preventing the rupture of pacific relations.

For the period of this mandate, the term of which, unless otherwise stipulated, cannot exceed thirty days, the States in dispute cease from all direct communication on the subject of the dispute, which is regarded as referred exclusively to the mediating Powers, which must use their best efforts to settle it.

In case of a definite rupture of pacific relations, these Powers are charged with the joint task of taking advantage of any opportunity to restore peace.

PART III.—*International Commissions of Inquiry.*

ARTICLE IX.

In disputes of an international nature involving neither honour nor vital interests, and arising from a difference of opinion on points of fact, the Contracting Powers deem it expedient and desirable that the parties who have not been able to come to an agreement by means of diplomacy, should, as far as circumstances allow, institute an International Commission of Inquiry, to facilitate a solution of these disputes by elucidating the facts by means of an impartial and conscientious investigation.

ARTICLE X.

International Commissions of Inquiry are constituted by special agreement between the parties in dispute.

1 The Inquiry Convention defines the facts to be examined; it
2 determines the mode and time in which the Commission is to
3 be formed and the extent of the powers of the Commissioners.

4 It also determines, if there is need, where the Commission is
5 to sit, and whether it may remove to another place, the language
6 the Commission shall use and the languages the use of which
7 shall be authorized before it, as well as the date on which each
8 party must deposit its statement of facts, and, generally speak-
9 ing, all the conditions upon which the parties have agreed.

10 If the parties consider it necessary to appoint Assessors, the
11 Convention of Inquiry shall determine the mode of their selec-
12 tion and the extent of their powers.

13 ARTICLE XI.

14 If the Inquiry Convention has not determined where the
15 Commission is to sit, it will sit at The Hague.

16 The place of meeting, once fixed, cannot be altered by the
17 Commission except with the assent of the parties.

18 If the Inquiry Convention has not determined what languages
19 are to be employed, the question shall be decided by the Com-
20 mission.

21 ARTICLE XII.

22 Unless an undertaking is made to the contrary, Commissions
23 of Inquiry shall be formed in the manner determined by Arti-
24 cles XLV and LVII of the present Convention.

25 ARTICLE XIII.

26 Should one of the Commissioners or one of the Assessors,
27 should there be any, either die, or resign, or be unable for any
28 reason whatever to discharge his functions, the same procedure
29 is followed for filling the vacancy as was followed for appoint-
30 ing him.

31 ARTICLE XIV.

32 The parties are entitled to appoint special agents to attend
33 the Commission of Inquiry, whose duty it is to represent them
34 and to act as intermediaries between them and the Commission.

35 They are further authorized to engage counsel or advocates,
36 appointed by themselves, to state their case and uphold their
37 interests before the Commission.

38 ARTICLE XV.

39 The International Bureau of the Permanent Court of Arbi-
40 tration acts as registry for the Commissions which sit at The

1 Hague, and shall place its offices and staff at the disposal of
2 the Contracting Powers for the use of the Commission of In-
3 quiry.

4 ARTICLE XVI.

5 If the Commission meets elsewhere than at The Hague, it
6 appoints a Secretary-General, whose office serves as registry.

7 It is the function of the registry, under the control of the
8 President, to make the necessary arrangements for the sittings
9 of the Commission, the preparation of the Minutes, and, while
10 the inquiry lasts, for the charge of the archives, which shall
11 subsequently be transferred to the International Bureau at The
12 Hague.

13 ARTICLE XVII.

14 In order to facilitate the constitution and working of Com-
15 missions of Inquiry, the Contracting Powers recommend the
16 following rules, which shall be applicable to the inquiry pro-
17 cedure in so far as the parties do not adopt other rules.

18 ARTICLE XVIII.

19 The Commission shall settle the details of the procedure not
20 covered by the special Inquiry Convention or the present Con-
21 vention, and shall arrange all the formalities required for dealing
22 with the evidence.

23 ARTICLE XIX.

24 On the inquiry both sides must be heard.

25 At the dates fixed, each party communicates to the Com-
26 mission and to the other party the statements of facts, if any,
27 and, in all cases, the instruments, papers, and documents
28 which it considers useful for ascertaining the truth, as well as
29 the list of witnesses and experts whose evidence it wishes to
30 be heard.

31 ARTICLE XX.

32 The Commission is entitled, with the assent of the Powers,
33 to move temporarily to any place where it considers it may be
34 useful to have recourse to this means of inquiry or to send
35 one or more of its members. Permission must be obtained
36 from the State on whose territory it is proposed to hold the
37 inquiry.

1 ARTICLE XXI.

2 Every investigation, and every examination of a locality,
3 must be made in the presence of the agents and counsel of the
4 parties or after they have been duly summoned.

5 ARTICLE XXII.

6 The Commission is entitled to ask from either party for such
7 explanations and information as it considers necessary.

8 ARTICLE XXIII.

9 The parties undertake to supply the Commission of Inquiry,
10 as fully as they may think possible, with all means and facil-
11 ities necessary to enable it to become completely acquainted
12 with, and to accurately understand, the facts in question.

13 They undertake to make use of the means at their disposal,
14 under their municipal law, to insure the appearance of the
15 witnesses or experts who are in their territory and have been
16 summoned before the Commission.

17 If the witnesses or experts are unable to appear before the
18 Commission, the parties will arrange for their evidence to be
19 taken before the qualified officials of their own country.

20 ARTICLE XXIV.

21 For all notices to be served by the Commission in the terri-
22 tory of a third Contracting Power, the Commission shall apply
23 direct to the Government of the said Power. The same rule
24 applies in the case of steps being taken on the spot to procure
25 evidence.

26 The requests for this purpose are to be executed so far as
27 the means at the disposal of the Power applied to under its
28 municipal law allow. They cannot be rejected unless the Power
29 in question considers they are calculated to impair its sovereign
30 rights or its safety.

31 The Commission will equally be always entitled to act through
32 the Power on whose territory it sits.

33 ARTICLE XXV.

34 The witnesses and experts are summoned on the request of
35 of the parties or by the Commission of its own motion, and,
36 in every case, through the Government of the State in whose
37 territory they are.

1 The witnesses are heard in succession and separately, in the
2 presence of the agents and counsel, and in the order fixed by
3 the Commission.

4 ARTICLE XXVI.

5 The examination of witnesses is conducted by the President.

6 The members of the Commission may however put to each
7 witness questions which they consider likely to throw light on
8 and complete his evidence, or get information on any point con-
9 cerning the witness within the limits of what is necessary in
10 order to get at the truth.

11 The agents and counsel of the parties may not interrupt the
12 witness when he is making his statement, nor put any direct
13 question to him, but they may ask the President to put such
14 additional questions to the witness as they think expedient.

15 ARTICLE XXVII.

16 The witness must give his evidence without being allowed
17 to read any written draft. He may, however, be permitted
18 by the President to consult notes or documents if the nature
19 of the facts referred to necessitates their employment.

20 ARTICLE XXVIII.

21 A Minute of the evidence of the witness is drawn up forth-
22 with and read to the witness. The latter may make such altera-
23 tions and additions as he thinks necessary, which will be
24 recorded at the end of his statement.

25 When the whole of his statement has been read to the wit-
26 ness, he is asked to sign it.

27 ARTICLE XXIX.

28 The agents are authorized, in the course of or at the close
29 of the inquiry, to present in writing to the Commission and
30 to the other party such statements, requisitions, or summaries
31 of the facts as they consider useful for ascertaining the truth.

32 ARTICLE XXX.

33 The Commission considers its decisions in private and the
34 proceedings are secret.

35 All questions are decided by a majority of the members of
36 the Commission.

37 If a member declines to vote, the fact must be recorded in
38 the Minutes.

1 ARTICLE XXXI.

2 The sittings of the Commission are not public, nor the Min-
3 utes and documents connected with the inquiry published
4 except in virtue of a decision of the Commission taken with
5 the consent of the parties.

6 ARTICLE XXXII.

7 After the parties have presented all the explanations and
8 evidence, and the witnesses have all been heard, the President
9 declares the inquiry terminated, and the Commission adjourns
10 to deliberate and to draw up its Report.

11 ARTICLE XXXIII.

12 The Report is signed by all the members of the Commission.
13 If one of the members refuses to sign, the fact is mentioned;
14 but the validity of the Report is not affected.

15 ARTICLE XXXIV.

16 The Report of the Commission is read at a public sitting,
17 the agents and counsel of the parties being present or duly
18 summoned.

19 A copy of the Report is given to each party.

20 ARTICLE XXXV.

21 The Report of the Commission is limited to a statement of
22 facts, and has in no way the character of an Award. It leaves
23 to the parties entire freedom as to the effect to be given to the
24 statement.

25 ARTICLE XXXVI.

26 Each party pays its own expenses and an equal share of the
27 expenses incurred by the Commission.

28 PART IV.—*International Arbitration.*29 CHAPTER I.—*The System of Arbitration.*

30 ARTICLE XXXVII.

31 International arbitration has for its object the settlement of
32 disputes between States by Judges of their own choice and on
33 the basis of respect for law.

34 Recourse to arbitration implies an engagement to submit in
35 good faith to the Award.

36 ARTICLE XXXVIII.

37 In questions of a legal nature, and especially in the inter-
38 pretation or application of International Conventions, arbitra-
39 tion is recognized by the Contracting Powers as the most

1 effective, and, at the same time, the most equitable means
2 of settling disputes which diplomacy has failed to settle.

3 Consequently, it would be desirable that, in disputes about
4 the above-mentioned questions, the Contracting Powers should,
5 if the case arose, have recourse to arbitration, in so far as cir-
6 cumstances permit.

7 ARTICLE XXXIX.

8 The Arbitration Convention is concluded for questions
9 already existing or for questions which may arise eventually.

10 It may embrace any dispute or only disputes of a certain
11 category.

12 ARTICLE XL.

13 Independently of general or private Treaties expressly stipu-
14 lating recourse to arbitration as obligatory on the Contracting
15 Powers, the said Powers reserve to themselves the right of
16 concluding new Agreements, general or particular, with a view
17 to extending compulsory arbitration to all cases which they
18 may consider it possible to submit to it.

19 CHAPTER II.—*The Permanent Court of Arbitration.*

20 ARTICLE XLI.

21 With the object of facilitating an immediate recourse to
22 arbitration for international differences, which it has not been
23 possible to settle by diplomacy, the Contracting Powers under-
24 take to maintain the Permanent Court of Arbitration, as
25 established by the First Peace Conference, accessible at all
26 times, and operating, unless otherwise stipulated by the parties,
27 in accordance with the rules of procedure inserted in the pres-
28 ent Convention.

29 ARTICLE XLII.

30 The Permanent Court is competent for all arbitration cases,
31 unless the parties agree to institute a special Tribunal.

32 ARTICLE XLIII.

33 The Permanent Court sits at The Hague.

34 An International Bureau serves as registry for the Court.
35 It is the channel for communications relative to the meetings
36 of the Court; it has charge of the archives and conducts all
37 the administrative business.

38 The Contracting Powers undertake to communicate to the
39 Bureau, as soon as possible, a certified copy of any conditions

1 of arbitration arrived at between them and of any Award con-
2 cerning them delivered by a special Tribunal.

3 They likewise undertake to communicate to the Bureau the
4 laws, regulations, and documents eventually showing the exe-
5 cution of the Awards given by the Court.

6 ARTICLE XLIV.

7 Each Contracting Power selects four persons at the most, of
8 known competency in questions of international law, of the
9 highest moral reputation, and disposed to accept the duties
10 of Arbitrator.

11 The persons thus selected are inscribed, as members of the
12 Court, in a list which shall be notified to all the Contracting
13 Powers by the Bureau.

14 Any alteration in the list of Arbitrators is brought by the
15 Bureau to the knowledge of the Contracting Powers.

16 Two or more Powers may agree on the selection in common of
17 one or more members.

18 The same person can be selected by different Powers. The
19 members of the Court are appointed for a term of six years.
20 These appointments are renewable.

21 Should a member of the Court die or resign, the same pro-
22 cedure is followed for filling the vacancy as was followed for
23 appointing him. In this case the appointment is made for a
24 fresh period of six years.

25 ARTICLE XLV.

26 When the Contracting Powers wish to have recourse to the
27 Permanent Court for the settlement of a difference which has
28 arisen between them, the Arbitrators called upon to form the
29 Tribunal with jurisdiction to decide this difference must be chosen
30 from the general list of members of the Court.

31 Failing the direct agreement of the parties on the composition
32 of the Arbitration Tribunal, the following course shall be pur-
33 sued:—

34 Each party appoints two Arbitrators, of whom one only can
35 be its national or chosen from among the persons selected by it
36 as members of the Permanent Court. These Arbitrators
37 together choose an Umpire.

1 If the votes are equally divided, the choice of the Umpire is
2 intrusted to a third Power, selected by the parties by common
3 accord.

4 If an agreement is not arrived at on this subject each party
5 selects a different Power, and the choice of the Umpire is made
6 in concert by the Powers thus selected.

7 If, within two months' time, these two Powers cannot come
8 to an agreement, each of them presents two candidates taken
9 from the list of members of the Permanent Court, exclusive of
10 the members selected by the parties and not being nationals of
11 either of them. Drawing lots determines which of the candidates
12 thus presented shall be Umpire.

13 ARTICLE XLVI.

14 The Tribunal being thus composed, the parties notify to the
15 Bureau their determination to have recourse to the Court, the
16 text of their "Compromis,"* and the names of the Arbitrators.

17 The Bureau communicates without delay to each Arbitrator
18 the "Compromis," and the names of the other members of the
19 Tribunal.

20 The Tribunal assembles at the date fixed by the parties. The
21 Bureau makes the necessary arrangements for the meeting.

22 The members of the Tribunal, in the exercise of their duties
23 and out of their own country, enjoy diplomatic privileges and
24 immunities.

25 ARTICLE XLVII.

26 The Bureau is authorized to place its offices and staff at the
27 disposal of the Contracting Powers for the use of any special
28 Board of Arbitration.

29 The jurisdiction of the Permanent Court may, within the
30 conditions laid down in the regulations, be extended to disputes
31 between non-Contracting Powers or between Contracting
32 Powers and non-Contracting Powers, if the parties are agreed
33 on recourse to this Tribunal.

34 ARTICLE XLVIII.

35 The Contracting Powers consider it their duty, if a serious
36 dispute threatens to break out between two or more of them, to
37 remind these latter that the Permanent Court is open to them.

*The preliminary Agreement in an international arbitration defining the point at issue and arranging the procedure to be followed.

1 Consequently, they declare that the fact of reminding the
2 parties at variance of the provisions of the present Convention,
3 and the advice given to them, in the highest interests of peace,
4 to have recourse to the Permanent Court, can only be regarded
5 as friendly actions.

6 In case of dispute between two Powers, one of them can
7 always address to the International Bureau a note containing a
8 declaration that it would be ready to submit the dispute to
9 arbitration.

10 The Bureau must at once inform the other Power of the
11 declaration.

12 ARTICLE XLIX.

13 The Permanent Administrative Council, composed of the
14 Diplomatic Representatives of the Contracting Powers accredited
15 to The Hague and of the Netherland Minister for Foreign
16 Affairs, who will act as President, is charged with the direction
17 and control of the International Bureau.

18 The Council settles its rules of procedure and all other neces-
19 sary regulations.

20 It decides all questions of administration which may arise
21 with regard to the operations of the Court.

22 It has entire control over the appointment, suspension, or
23 dismissal of the officials and employés of the Bureau.

24 It fixes the payments and salaries, and controls the general
25 expenditure.

26 At meetings duly summoned the presence of nine members
27 is sufficient to render valid the discussions of the Council.
28 The decisions are taken by a majority of votes.

29 The Council communicates to the Contracting Powers with-
30 out delay the regulations adopted by it. It furnishes them
31 with an annual Report on the labours of the Court, the working
32 of the administration, and the expenditure. The Report
33 likewise contains a résumé of what is important in the docu-
34 ments communicated to the Bureau by the Powers in virtue
35 of Article XLIII, paragraphs 3 and 4.

36 ARTICLE L.

37 The expenses of the Bureau shall be borne by the Contract-
38 ing Powers in the proportion fixed for the International Bureau
39 of the Universal Postal Union.

1 The expenses to be charged to the adhering Powers shall be
2 reckoned from the date on which their adhesion comes into
3 force.

4 CHAPTER III.—*Arbitration Procedure.*

5 ARTICLE LI.

6 With a view to encouraging the development of arbitration,
7 the Contracting Powers have agreed on the following rules,
8 which are applicable to arbitration procedure, unless other
9 rules have been agreed on by the parties.

10 ARTICLE LII.

11 The Powers which have recourse to arbitration sign a "Com-
12 promis," in which the subject of the dispute is clearly defined,
13 the time allowed for appointing Arbitrators, the form, order,
14 and time in which the communication referred to in Article
15 LXIII must be made, and the amount of the sum which each
16 party must deposit in advance to defray the expenses.

17 The "Compromis" likewise defines, if there is occasion,
18 the manner of appointing Arbitrators, any special powers
19 which may eventually belong to the Tribunal, where it shall
20 meet, the language it shall use, and the languages the employ-
21 ment of which shall be authorized before it, and, generally
22 speaking, all the conditions on which the parties are agreed.

23 ARTICLE LIII.

24 The Permanent Court is competent to settle the "Compromis,"
25 if the parties are agreed to have recourse to it for the purpose.

26 It is similarly competent, even if the request is only made
27 by one of the parties, when all attempts to reach an understand-
28 ing through the diplomatic channel have failed, in the case of:—

29 1. A dispute covered by a general Treaty of Arbitration
30 concluded or renewed after the present Convention has come
31 into force, and providing for a "Compromis" in all disputes and
32 not either explicitly or implicitly excluding the settlement of the
33 "Compromis" from the competence of the Court. Recourse can-
34 not, however, be had to the Court if the other party declares
35 that in its opinion the dispute does not belong to the category
36 of disputes which can be submitted to compulsory arbitration,
37 unless the Treaty of Arbitration confers upon the Arbitration
38 Tribunal the power of deciding this preliminary question.

1 2. A dispute arising from contract debts claimed from one
2 Power by another Power as due to its nationals, and for the
3 settlement of which the offer of arbitration has been accepted.
4 This arrangement is not applicable if acceptance is subject
5 to the condition that the "Compromis" should be settled in
6 some other way.

7 ARTICLE LIV.

8 In the cases contemplated in the preceding Article, the
9 "Compromis" shall be settled by a Commission consisting of
10 five members selected in the manner arranged for in Article XLV,
11 paragraphs 3 to 6.

12 The fifth member is President of the Commission *ex officio*.

13 ARTICLE LV.

14 The duties of Arbitrator may be conferred on one Arbitrator
15 alone or on several Arbitrators selected by the parties as they
16 please, or chosen by them from the members of the Permanent
17 Court of Arbitration established by the present Convention

18 Failing the constitution of the Tribunal by direct agree-
19 ment between the parties, the course referred to in Article XLV,
20 paragraphs 3 to 6, is followed.

21 ARTICLE LVI.

22 When a Sovereign or the Chief of a State is chosen as Arbi-
23 trator, the arbitration procedure is settled by him.

24 ARTICLE LVII.

25 The Umpire is President of the Tribunal *ex officio*.

26 When the Tribunal does not include an Umpire, it appoints
27 its own President.

28 ARTICLE LVIII.

29 When the "Compromis" is settled by a Commission, as
30 contemplated in Article LIV, and in the absence of an agree-
31 ment to the contrary, the Commission itself shall form the Arbi-
32 tration Tribunal.

33 ARTICLE LIX.

34 Should one of the Arbitrators either die, retire, or be unable
35 for any reason whatever to discharge his functions, the same
36 procedure is followed for filling the vacancy as was followed
37 for appointing him.

ARTICLE LX.

The Tribunal sits at The Hague, unless some other place is selected by the parties.

The Tribunal can only sit in the territory of a third Power with the latter's consent.

The place of meeting once fixed cannot be altered by the Tribunal, except with the consent of the parties.

ARTICLE LXI.

If the question as to what languages are to be used has not been settled by the "Compromis," it shall be decided by the Tribunal.

ARTICLE LXII.

The parties are entitled to appoint special agents to attend the Tribunal to act as intermediaries between themselves and the Tribunal.

They are further authorized to retain for the defence of their rights and interests before the Tribunal counsel or advocates appointed by themselves for this purpose.

The members of the Permanent Court may not act as agents, counsel, or advocates except on behalf of the Power which appointed them members of the Court.

ARTICLE LXIII.

As a general rule, arbitration procedure comprises two distinct phases: pleadings and oral discussions.

The pleadings consist in the communication by the respective agents to the members of the Tribunal and the opposite party of cases, counter-cases, and, if necessary, of replies; the parties annex thereto all papers and documents called for in the case. This communication shall be made either directly or through the intermediary of the International Bureau, in the order and within the time fixed by the "Compromis."

The time fixed by the "Compromis" may be extended by mutual agreement by the parties, or by the Tribunal when the latter considers it necessary for the purpose of reaching a just decision.

The discussions consist in the oral development before the Tribunal of the arguments of the parties.

1 ARTICLE LXIV.

2 A certified copy of every document produced by one party
3 must be communicated to the other party.

4 ARTICLE LXV.

5 Unless special circumstances arise, the Tribunal does not meet
6 until the pleadings are closed.

7 ARTICLE LXVI.

8 The discussions are under the control of the President.

9 They are only public if it be so decided by the Tribunal, with
10 the assent of the parties.

11 They are recorded in minutes drawn up by the Secretaries
12 appointed by the President. These minutes are signed by the
13 President and by one of the Secretaries and alone have an
14 authentic character.

15 ARTICLE LXVII.

16 After the close of the pleadings, the Tribunal is entitled to
17 refuse discussion of all new papers or documents which one of the
18 parties may wish to submit to it without the consent of the
19 other party.

20 ARTICLE LXVIII.

21 The Tribunal is free to take into consideration new papers or
22 documents to which its attention may be drawn by the agents
23 or counsel of the parties.

24 In this case, the Tribunal has the right to require the produc-
25 tion of these papers or documents, but is obliged to make them
26 known to the opposite party.

27 ARTICLE LXIX.

28 The Tribunal can, besides, require from the agents of the par-
29 ties the production of all papers, and can demand all necessary
30 explanations. In case of refusal the Tribunal takes note of it.

31 ARTICLE LXX.

32 The agents and the counsel of the parties are authorized to
33 present orally to the Tribunal all the arguments they may con-
34 sider expedient in defence of their case.

35 ARTICLE LXXI.

36 They are entitled to raise objections and points. The decisions
37 of the Tribunal on these points are final and cannot form the
38 subject of any subsequent discussion.

ARTICLE LXXII.

The members of the Tribunal are entitled to put questions to the agents and counsel of the parties, and to ask them for explanations on doubtful points.

Neither the questions put, nor the remarks made by members of the Tribunal in the course of the discussions, can be regarded as an expression of opinion by the Tribunal in general or by its members in particular.

ARTICLE LXXIII.

The Tribunal is authorized to declare its competence in interpreting the "Compromis," as well as the other Treaties which may be invoked, and in applying the principles of law.

ARTICLE LXXIV.

The Tribunal is entitled to issue rules of procedure for the conduct of the case, to decide the forms, order, and time in which each party must conclude its arguments, and to arrange all the formalities required for dealing with the evidence.

ARTICLE LXXV.

The parties undertake to supply the Tribunal, as fully as they consider possible, with all the information required for deciding the case.

ARTICLE LXXVI.

For all notices which the Tribunal has to serve in the territory of a third Contracting Power, the Tribunal shall apply direct to the Government of that Power. The same rule applies in the case of steps being taken to procure evidence on the spot.

The requests for this purpose are to be executed as far as the means at the disposal of the Power applied to under its municipal law allow. They cannot be rejected unless the Power in question considers them calculated to impair its own sovereign rights or its safety.

The Court will equally be always entitled to act through the Power on whose territory it sits.

ARTICLE LXXVII.

When the agents and counsel of the parties have submitted all the explanations and evidence in support of their case the President shall declare the discussion closed.

1 ARTICLE LXXVIII.

2 The Tribunal considers its decisions in private and the pro-
3 ceedings remain secret.

4 All questions are decided by a majority of the members of
5 the Tribunal.

6 ARTICLE LXXIX.

7 The Award must give the reasons on which it is based. It
8 contains the names of the Arbitrators; it is signed by the
9 President and Registrar or by the Secretary acting as Registrar.

10 ARTICLE LXXX.

11 The Award is read out in public sitting, the agents and
12 counsel of the parties being present or duly summoned to
13 attend.

14 ARTICLE LXXXI.

15 The Award, duly pronounced and notified to the agents of
16 the parties, settles the dispute definitively and without appeal.

17 ARTICLE LXXXII.

18 Any dispute arising between the parties as to the interpre-
19 tation and execution of the Award shall, in the absence of
20 an Agreement to the contrary, be submitted to the Tribunal
21 which pronounced it.

22 ARTICLE LXXXIII.

23 The parties can reserve in the "Compromis" the right to
24 demand the revision of the Award.

25 In this case and unless there be an Agreement to the con-
26 trary, the demand must be addressed to the Tribunal which
27 pronounced the Award. It can only be made on the ground
28 of the discovery of some new fact calculated to exercise a
29 decisive influence upon the Award and which was unknown
30 to the Tribunal and to the party which demanded the revision
31 at the time the discussion was closed.

32 Proceedings for revision can only be instituted by a decision
33 of the Tribunal expressly recording the existence of the new
34 fact, recognizing in it the character described in the preceding
35 paragraph, and declaring the demand admissible on this
36 ground.

37 The "Compromis" fixes the period within which the demand
38 for revision must be made.

ARTICLE LXXXIV.

The Award is not binding except on the parties in dispute.

When it concerns the interpretation of a Convention to which Powers other than those in dispute are parties, they shall inform all the Signatory Powers in good time. Each of these Powers is entitled to intervene in the case. If one or more avail themselves of this right, the interpretation contained in the Award is equally binding on them.

ARTICLE LXXXV.

Each party pays its own expenses and an equal share of the expenses of the Tribunal.

CHAPTER IV.—*Arbitration by Summary Procedure.*

ARTICLE LXXXVI.

With a view to facilitating the working of the system of arbitration in disputes admitting of a summary procedure, the Contracting Powers adopt the following rules, which shall be observed in the absence of other arrangements and subject to the reservation that the provisions of Chapter III apply so far as may be.

ARTICLE LXXXVII.

Each of the parties in dispute appoints an Arbitrator. The two Arbitrators thus selected choose an Umpire. If they do not agree on this point, each of them proposes two candidates taken from the general list of the members of the Permanent Court exclusive of the members appointed by either of the parties and not being nationals of either of them; which of the candidates thus proposed shall be the Umpire is determined by lot.

The Umpire presides over the Tribunal, which gives its decisions by a majority of votes.

ARTICLE LXXXVIII.

In the absence of any previous agreement the Tribunal, as soon as it is formed, settles the time within which the two parties must submit their respective cases to it.

1 ARTICLE LXXXIX.

2 Each party is represented before the Tribunal by an agent,
3 who serves as intermediary between the Tribunal and the Gov-
4 ernment who appointed him.

5 ARTICLE XC.

6 The proceedings are conducted exclusively in writing. Each
7 party, however, is entitled to ask that witnesses and experts
8 should be called. The Tribunal has, for its part, the right to
9 demand oral explanations from the agents of the two parties,
10 as well as from the experts and witnesses whose appearance in
11 Court it may consider useful.

12 PART V.—*Final Provisions.*

13 ARTICLE XCI.

14 The present Convention, duly ratified, shall replace, as between
15 the Contracting Powers, the Convention for the Pacific Settle-
16 ment of International Disputes of the 29th July, 1899.

17 ARTICLE XCII.

18 The present Convention shall be ratified as soon as possible.

19 The ratifications shall be deposited at The Hague.

20 The first deposit of ratifications shall be recorded in a *procès-*
21 *verbal* signed by the Representatives of the Powers which take
22 part therein and by the Netherland Minister for Foreign Affairs.

23 The subsequent deposits of ratifications shall be made by
24 means of a written notification, addressed to the Netherland
25 Government and accompanied by the instrument of ratification.

26 A duly certified copy of the *procès-verbal* relative to the first
27 deposit of ratifications, of the notifications mentioned in the
28 preceding paragraph, and of the instruments of ratification,
29 shall be immediately sent by the Netherland Government,
30 through the diplomatic channel, to the Powers invited to the
31 Second Peace Conference, as well as to those Powers which have
32 adhered to the Convention. In the cases contemplated in the
33 preceding paragraph, the said Government shall at the same
34 time inform the Powers of the date on which it received the
35 notification.

ARTICLE XCIII.

1 Non-Signatory Powers which have been invited to the Second
2 Peace Conference may adhere to the present Convention.

3 The Power which desires to adhere notifies its intention in
4 writing to the Netherland Government, forwarding to it the act
5 of adhesion, which shall be deposited in the archives of the said
6 Government.

7 This Government shall immediately forward to all the other
8 Powers invited to the Second Peace Conference a duly certified
9 copy of the notification as well as of the act of adhesion, men-
10 tioning the date on which it received the notification.

11 ARTICLE XCIV.

12 The conditions on which the Powers which have not been
13 invited to the Second Peace Conference may adhere to the
14 present Convention shall form the subject of a subsequent
15 Agreement between the Contracting Powers.

16 ARTICLE XCV.

17 The present Convention shall take effect, in the case of the
18 Powers which were not a party to the first deposit of ratifica-
19 tions, sixty days after the date of the *procès-verbal* of this de-
20 posit, and, in the case of the Powers which ratify subsequently
21 or which adhere, sixty days after the notification of their rati-
22 fication or of their adhesion has been received by the Netherland
23 Government.

24 ARTICLE XCVI.

25 In the event of one of the Contracting Parties wishing to
26 denounce the present Convention, the denunciation shall be
27 notified in writing to the Netherland Government, which shall
28 immediately communicate a duly certified copy of the notifica-
29 tion to all the other Powers informing them of the date on
30 which it was received.

31 The denunciation shall only have effect in regard to the
32 notifying Power, and one year after the notification has reached
33 the Netherland Government.

34 ARTICLE XCVII.

35 A register kept by the Netherland Minister for Foreign Affairs
36 shall give the date of the deposit of ratifications effected in
37 virtue of Article XCII, paragraphs 3 and 4, as well as the date

1 on which the notifications of adhesion (Article XCIII, para-
2 graph 2) or of denunciation (Article XCVI, paragraph 1) have
3 been received.

4 Each Contracting Power is entitled to have access to this
5 register and to be supplied with duly certified extracts from it.

6 In faith whereof the Plenipotentiaries have appended their
7 signatures to the present Convention.

8 Done at The Hague, the 18th October, 1907, in a single copy,
9 which shall remain deposited in the archives of the Netherland
10 Government, and duly certified copies of which shall be sent,
11 through the diplomatic channel, to the Contracting Powers.

**RESOLUTION OF RATIFICATION OF THE CONVENTION FOR THE
SETTLEMENT OF INTERNATIONAL DISPUTES, SIGNED AT THE
HAGUE, 1907. (Ex. F, 60th, 1st.)**

APRIL 2, 1908.

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of a convention signed by the delegates of the United States to the Second International Peace Conference, held at The Hague from June sixteenth to October eighteenth, nineteen hundred and seven, for the pacific settlement of international disputes, subject to the declaration made by the delegates of the United States before signing said convention, namely:

“Nothing contained in this convention shall be so construed as to require the United States of America to depart from its traditional policy of not intruding upon, interfering with, or entangling itself in the political questions of policy or internal administration of any foreign state; nor shall anything contained in the said convention be construed to imply a relinquishment by the United States of its traditional attitude toward purely American questions.”

Resolved further, as a part of this act of ratification, That the United States approves this convention with the understanding that recourse to the permanent court for the settlement of differences can be had only by agreement thereto through general or special treaties of arbitration heretofore or hereafter concluded between the parties in dispute; and the United States now exercises the option contained in article fifty-three of said convention, to exclude the formulation of the “compromis” by the permanent court, and hereby excludes from the competence of the permanent court the power to frame the “compromis” required by general or special treaties of arbitration concluded or hereafter to be concluded by the United States, and further expressly declares that the “compromis” required by any treaty of arbitration to which the United States may be a party shall be settled only by agreement between the contracting parties, unless such treaty shall expressly provide otherwise.

RECOVERY OF CONTRACT DEBTS.

A CONVENTION SIGNED BY THE DELEGATES OF THE UNITED STATES TO THE SECOND INTERNATIONAL PEACE CONFERENCE HELD AT THE HAGUE FROM JUNE 15 TO OCTOBER 18, 1907, RESPECTING THE LIMITATION OF THE EMPLOYMENT OF FORCE FOR THE RECOVERY OF CONTRACT DEBTS.

FEBRUARY 27, 1908.—Read; convention read the first time and referred to the Committee on Foreign Relations, and, together with the message and accompanying papers, ordered to be printed in confidence for the use of the Senate.

APRIL 7, 1908.—Ratified.

1 His Majesty the German Emperor, King of Prussia; the
2 President of the United States of America; the President of the
3 Argentine Republic; His Majesty the Emperor of Austria, King
4 of Bohemia, &c., and Apostolic King of Hungary; His Majesty
5 the King of the Belgians; the President of the Republic of
6 Bolivia; the President of the Republic of the United States of
7 Brazil; His Royal Highness the Prince of Bulgaria; the President
8 of the Republic of Chile; His Majesty the Emperor of China;
9 the President of the Republic of Colombia; the Provisional
10 Governor of the Republic of Cuba; His Majesty the King of
11 Denmark; the President of the Dominican Republic; the
12 President of the Republic of Ecuador; His Majesty the King of
13 Spain; the President of the French Republic; His Majesty the
14 King of the United Kingdom of Great Britain and Ireland and
15 of the British Dominions beyond the Seas, Emperor of India;
16 His Majesty the King of the Hellenes; the President of the
17 Republic of Guatemala; the President of the Republic of Haïti;
18 His Majesty the King of Italy; His Majesty the Emperor of
19 Japan; His Royal Highness the Grand Duke of Luxemburg,
20 Duke of Nassau; the President of the United States of Mexico;
21 His Royal Highness the Prince of Montenegro; the President
22 of the Republic of Nicaragua; His Majesty the King of Norway;

1 the President of the Republic of Panamá; the President of the
2 Republic of Paraguay; Her Majesty the Queen of the Nether-
3 lands; the President of the Republic of Peru; His Imperial
4 Majesty the Shah of Persia; His Majesty the King of Portugal
5 and of the Algarves, &c.; His Majesty the King of Roumania;
6 His Majesty the Emperor of All the Russias; the President
7 of the Republic of Salvador; His Majesty the King of Servia;
8 His Majesty the King of Siam; His Majesty the King of Sweden;
9 the Swiss Federal Council; His Majesty the Emperor of the
10 Ottomans; the President of the Oriental Republic of Uruguay;
11 the President of the United States of Venezuela:

12 Being desirous of avoiding between nations armed conflicts
13 of a pecuniary origin arising from contract debts which are
14 claimed from the Government of one country by the Govern-
15 ment of another country as due to its nationals, have resolved
16 to conclude a Convention to this effect, and have appointed
17 the following as their Plenipotentiaries:

18 [For names of Plenipotentiaries, see Final Act, supra.]

19 Who, after depositing their full powers, found in good and due
20 form, have agreed upon the following provisions:—

21 ARTICLE I.

22 The Contracting Powers agree not to have recourse to armed
23 force for the recovery of contract debts claimed from the Govern-
24 ment of one country by the Government of another country
25 as being due to its nationals.

26 This undertaking is, however, not applicable when the
27 debtor State refuses or neglects to reply to an offer of arbitration,
28 or, after accepting the offer, prevents any "Compromis" from
29 being agreed on, or, after the arbitration, fails to submit to the
30 award.

31 ARTICLE II.

32 It is further agreed that the arbitration mentioned in para-
33 graph 2 of the foregoing Article shall be subject to the procedure
34 laid down in Part IV, Chapter III, of The Hague Convention
35 for the Pacific Settlement of International Disputes. The award
36 shall determine, except where otherwise agreed between the
37 parties, the validity of the claim, the amount of the debt, and
38 the time and mode of payment.

1 ARTICLE III.

2 The present Convention shall be ratified as soon as possible.

3 The ratifications shall be deposited at The Hague.

4 The first deposit of ratifications shall be recorded in a *procès-*
5 *verbal* signed by the Representatives of the Powers taking part
6 therein and by the Netherland Minister for Foreign Affairs.7 The subsequent deposits of ratifications shall be made by
8 means of a written notification addressed to the Netherland
9 Government and accompanied by the instrument of ratification.10 A duly certified copy of the *procès-verbal* relative to the first
11 deposit of ratifications, of the notifications mentioned in the
12 preceding paragraph, as well as of the instruments of ratification,
13 shall be sent immediately by the Netherland Government,
14 through the diplomatic channel, to the Powers invited to the
15 Second Peace Conference, as well as to the other Powers which
16 have adhered to the Convention. In the cases contemplated
17 in the preceding paragraph, the said Government shall inform
18 them at the same time of the date on which it received the
19 notification.

20 ARTICLE IV.

21 Non-Signatory Powers may adhere to the present Convention.

22 The Power which desires to adhere notifies its intention in
23 writing to the Netherland Government, forwarding to it the act
24 of adhesion, which shall be deposited in the archives of the said
25 Government.26 The said Government shall forward immediately to all the
27 other Powers invited to the Second Peace Conference a duly cer-
28 tified copy of the notification, as well as of the act of adhesion,
29 mentioning the date on which it received the notification.

30 ARTICLE V.

31 The present Convention shall come into force, in the case of
32 the Powers which were a party to the first deposit of ratifica-
33 tions, sixty days after the date of the *procès-verbal* of this
34 deposit, in the case of the Powers which ratify subsequently or
35 which adhere, sixty days after the notification of their ratifi-
36 cation or of their adhesion has been received by the Nether-
37 land Government.

1 ARTICLE VI.

2 In the event of one of the Contracting Powers wishing to
3 denounce the present Convention, the denunciation shall be
4 notified in writing to the Netherland Government, which shall
5 immediately communicate a duly certified copy of the notifica-
6 tion to all the other Powers, informing them at the same time
7 of the date on which it was received.

8 The denunciation shall only have effect in regard to the noti-
9 fying Power, and one year after the notification has reached
10 the Netherland Government.

11 ARTICLE VII.

12 A register kept by the Netherland Ministry for Foreign
13 Affairs shall give the date of the deposit of ratifications made
14 in virtue of Article III, paragraphs 3 and 4, as well as the date
15 on which the notifications of adhesion (Article IV, paragraph
16 2) or of denunciation (Article VI, paragraph 1) were received.

17 Each Contracting Power is entitled to have access to this
18 register and to be supplied with duly certified extracts from it.

19 In faith whereof the Plenipotentiaries have appended their
20 signatures to the present Convention.

21 Done at The Hague, the 18th October, 1907, in a single copy,
22 which shall remain deposited in the archives of the Netherland
23 Government, and duly certified copies of which shall be sent
24 to the Contracting Powers through the diplomatic channel.

**RESOLUTION OF RATIFICATION OF A CONVENTION RESPECTING
THE LIMITATION OF THE EMPLOYMENT OF FORCE FOR THE
RECOVERY OF CONTRACT DEBTS, SIGNED AT THE HAGUE, 1907.**

Resolved (two-thirds of the Senators present concurring therein), that the Senate advise and consent to the ratification of a convention signed by the delegates of the United States to the Second International Peace Conference held at The Hague from June 15 to October 18, 1907, respecting the limitation of the employment of force for the recovery of contract debts.

Resolved further, as a part of this act of ratification, that the United States approves this convention with the understanding that recourse to the permanent court for the settlement of the differences referred to in said convention can be had only by agreement thereto through general or special treaties of arbitration heretofore or hereafter concluded between the parties in dispute.

OPENING OF HOSTILITIES.

A CONVENTION SIGNED BY THE DELEGATES OF THE UNITED STATES TO THE SECOND INTERNATIONAL PEACE CONFERENCE HELD AT THE HAGUE FROM JUNE 15 TO OCTOBER 18, 1907, RELATIVE TO THE OPENING OF HOSTILITIES.

FEBRUARY 27, 1908.—Read; convention read the first time and referred to the Committee on Foreign Relations, and, together with the message and accompanying papers, ordered to be printed in confidence for the use of the Senate.

MARCH 10, 1908.—Ratified.

1 His Majesty the German Emperor, King of Prussia; the Presi-
2 dent of the United States of America; the President of the Argen-
3 tine Republic; His Majesty the Emperor of Austria, King of
4 Bohemia, &c., and Apostolic King of Hungary; His Majesty the
5 King of the Belgians; the President of the Republic of Bolivia;
6 the President of the Republic of the United States of Brazil; His
7 Royal Highness the Prince of Bulgaria; the President of the
8 Republic of Chile; His Majesty the Emperor of China; the Presi-
9 dent of the Republic of Colombia; the Provisional Governor of
10 the Republic of Cuba; His Majesty the King of Denmark; the
11 President of the Dominican Republic; the President of the
12 Republic of Ecuador; His Majesty the King of Spain; the Presi-
13 dent of the French Republic; His Majesty the King of the United
14 Kingdom of Great Britain and Ireland and of the British Domin-
15 ions beyond the Seas, Emperor of India; His Majesty the King
16 of the Hellenes; the President of the Republic of Guatemala;
17 the President of the Republic of Haiti; His Majesty the King of
18 Italy; His Majesty the Emperor of Japan; His Royal Highness
19 the Grand Duke of Luxemburg, Duke of Nassau; the President
20 of the United States of Mexico; His Royal Highness the Prince
21 of Montenegro; the President of the Republic of Nicaragua; His
22 Majesty the King of Norway; the President of the Republic of
23 Panamá; the President of the Republic of Paraguay; Her

1 Majesty the Queen of the Netherlands; the President of the
2 Republic of Peru; His Imperial Majesty the Shah of Persia; His
3 Majesty the King of Portugal and of the Algarves, &c.; His
4 Majesty the King of Roumania; His Majesty the Emperor of All
5 the Russias; the President of the Republic of Salvador; His
6 Majesty the King of Servia; His Majesty the King of Siam; His
7 Majesty the King of Sweden; the Swiss Federal Council; His
8 Majesty the Emperor of the Ottomans; the President of the
9 Oriental Republic of Uruguay; the President of the United
10 States of Venezuela:

11 Considering that it is important, in order to ensure the main-
12 tenance of pacific relations, that hostilities should not commence
13 without previous warning.

14 That it is equally important that the existence of a state of war
15 should be notified without delay to neutral Powers;

16 Being desirous of concluding a Convention to this effect, have
17 appointed the following as their Plenipotentiaries:

18 [For names of Plenipotentiaries, see Final Act, *supra*.]

19 Who, after depositing their full powers, found in good and due
20 form, have agreed upon the following provisions:—

21 ARTICLE I.

22 The Contracting Powers recognize that hostilities between
23 themselves must not commence without previous and explicit
24 warning, in the form either of a reasoned declaration of war or
25 of an ultimatum with conditional declaration of war.

26 ARTICLE II.

27 The existence of a state of war must be notified to the neutral
28 Powers without delay, and shall not take effect in regard to them
29 until after the receipt of a notification, which may, however, be
30 given by telegraph. Neutral Powers, nevertheless, cannot rely
31 on the absence of notification if it is clearly established that they
32 were in fact aware of the existence of a state of war.

33 ARTICLE III.

34 Article I of the present Convention shall take effect in case of
35 war between two or more of the Contracting Powers.

36 Article II is binding as between a belligerent Power which is a
37 party to the Convention and neutral Powers which are also
38 parties to the Convention.

ARTICLE IV.

The present Convention shall be ratified as soon as possible.

The ratifications shall be deposited at The Hague.

The first deposit of ratifications shall be recorded in a *procès-verbal* signed by the Representatives of the Powers which take part therein and by the Netherland Minister for Foreign Affairs.

The subsequent deposits of ratifications shall be made by means of a written notification addressed to the Netherland Government and accompanied by the instrument of ratification.

A duly certified copy of the *procès-verbal* relative to the first deposit of ratifications, of the notifications mentioned in the preceding paragraph, as well as of the instruments of ratification, shall be at once sent by the Netherland Government through the diplomatic channel to the Powers invited to the Second Peace Conference, as well as to the other Powers which have adhered to the Convention. In the cases contemplated in the preceding paragraph, the said Government shall at the same time inform them of the date on which it received the notification.

ARTICLE V.

Non-Signatory Powers may adhere to the present Convention.

The Power which wishes to adhere notifies in writing its intention to the Netherland Government, forwarding to it the act of adhesion, which shall be deposited in the archives of the said Government.

The said Government shall at once forward to all the other Powers a duly certified copy of the notification as well as of the act of adhesion, stating the date on which it received the notification.

ARTICLE VI.

The present Convention shall come into force, in the case of the Powers which were a party to the first deposit of ratifications, sixty days after the date of the *procès-verbal* of that deposit, and, in the case of the Powers which ratify subsequently or which adhere, sixty days after the notification of their ratification or of their adhesion has been received by the Netherland Government.

ARTICLE VII.

In the event of one of the High Contracting Parties wishing to denounce the present Convention, the denunciation shall be noti-

1 fied in writing to the Netherland Government, which shall at
2 once communicate a duly certified copy of the notification to all
3 the other Powers, informing them of the date on which it was
4 received.

5 The denunciation shall only have effect in regard to the notify-
6 ing Power, and one year after the notification has reached the
7 Netherland Government.

8 ARTICLE VIII.

9 A register kept by the Netherland Ministry for Foreign Affairs
10 shall give the date of the deposit of ratifications made in virtue
11 of Article IV, paragraphs 3 and 4, as well as the date on which
12 the notifications of adhesion (Article V, paragraph 2) or of denun-
13 ciation (Article VII, paragraph 1) have been received.

14 Each Contracting Power is entitled to have access to this
15 register and to be supplied with duly certified extracts from it.

16 In faith whereof the Plenipotentiaries have appended their
17 signatures to the present Convention.

18 Done at The Hague, the 18th October, 1907, in a single copy,
19 which shall remain deposited in the archives of the Netherland
20 Government, and duly certified copies of which shall be sent,
21 through the diplomatic channel, to the Powers which have been
22 invited to the Second Peace Conference.

LAWS AND CUSTOMS OF WAR ON LAND.

A CONVENTION SIGNED BY THE DELEGATES OF THE UNITED STATES TO THE SECOND INTERNATIONAL PEACE CONFERENCE HELD AT THE HAGUE FROM JUNE 15 TO OCTOBER 18, 1907, RESPECTING THE LAWS AND CUSTOMS OF WAR ON LAND.

FEBRUARY 27, 1908.—Read; convention read the first time and referred to the Committee on Foreign Relations, and, together with the message and accompanying papers, ordered to be printed in confidence for the use of the Senate.

MARCH 10, 1908.—Ratified.

1 His Majesty the German Emperor, King of Prussia; the
2 President of the United States of America; the President of the
3 Argentine Republic; His Majesty the Emperor of Austria, King
4 of Bohemia, &c., and Apostolic King of Hungary; His Majesty
5 the King of the Belgians; the President of the Republic of
6 Bolivia; the President of the Republic of the United States of
7 Brazil; His Royal Highness the Prince of Bulgaria; the Presi-
8 dent of the Republic of Chile; His Majesty the Emperor of
9 China; the President of the Republic of Colombia; the Provi-
10 sional Governor of the Republic of Cuba; His Majesty the King
11 of Denmark; the President of the Dominican Republic; the
12 President of the Republic of Ecuador; His Majesty the King of
13 Spain; the President of the French Republic; His Majesty the
14 King of the United Kingdom of Great Britain and Ireland and of
15 the British Dominions beyond the Seas, Emperor of India; His
16 Majesty the King of the Hellenes; the President of the Republic
17 of Guatemala; the President of the Republic of Haiti; His
18 Majesty the King of Italy; His Majesty the Emperor of Japan;
19 His Royal Highness the Grand Duke of Luxemburg, Duke of
20 Nassau; the President of the United States of Mexico; His Royal
21 Highness the Prince of Montenegro; the President of the Re-
22 public of Nicaragua; His Majesty the King of Norway; the
23 President of the Republic of Panamá; the President of the
24 Republic of Paraguay; Her Majesty the Queen of the Nether-
25 lands; the President of the Republic of Peru; His Imperial

1 Majesty the Shah of Persia; His Majesty the King of Portugal
2 and of the Algarves, &c.; His Majesty the King of Roumania;
3 His Majesty the Emperor of All the Russias; the President of the
4 Republic of Salvador; His Majesty the King of Servia; His
5 Majesty the King of Siam; His Majesty the King of Sweden;
6 the Swiss Federal Council; His Majesty the Emperor of the
7 Ottomans; the President of the Oriental Republic of Uruguay;
8 the President of the United States of Venezuela:

9 Seeing that, while seeking means to preserve peace and pre-
10 vent armed conflicts between nations, it is likewise necessary to
11 bear in mind the case where the appeal to arms has been brought
12 about by events which their care was unable to avert;

13 Animated by the desire to serve, even in this extreme case, the
14 interests of humanity and the ever progressive needs of civilization;

15 Thinking it important, with this object, to revise the general
16 laws and customs of war, either with a view to defining them
17 with greater precision or to confining them within such limits
18 as would mitigate their severity as far as possible;

19 Have deemed it necessary to complete and explain in certain
20 particulars the work of the First Peace Conference, which, fol-
21 lowing on the Brussels Conference of 1874, and inspired by the
22 ideas dictated by a wise and generous forethought, adopted pro-
23 visions intended to define and govern the usages of war on land.

24 According to the views of the High Contracting Parties, these
25 provisions, the wording of which has been inspired by the desire to
26 diminish the evils of war, as far as military requirements permit,
27 are intended to serve as a general rule of conduct for the bellig-
28 erents in their mutual relations and in their relations with the
29 inhabitants.

30 It has not, however, been found possible at present to concert
31 Regulations covering all the circumstances which arise in practice;

32 On the other hand, the High Contracting Parties clearly do not
33 intend that unforeseen cases should, in the absence of a written
34 undertaking, be left to the arbitrary judgment of military
35 commanders.

36 Until a more complete code of the laws of war has been issued,
37 the High Contracting Parties deem it expedient to declare that,
38 in cases not included in the Regulations adopted by them, the
39 inhabitants and the belligerents remain under the protection
40 and the rule of the principles of the law of nations, as they

1 result from the usages established among civilized peoples, from
2 the laws of humanity, and the dictates of the public conscience.

3 They declare that it is in this sense especially that Articles I
4 and II of the Regulations adopted must be understood.

5 The High Contracting Parties, wishing to conclude a fresh
6 Convention to this effect, have appointed the following as their
7 Plenipotentiaries:—

8 [For names of Plenipotentiaries, see Final Act, *supra*.]

9 Who, after having deposited their full powers, found in good
10 and due form, have agreed upon the following:—

11 ARTICLE I.

12 The Contracting Powers shall issue instructions to their armed
13 land forces which shall be in conformity with the Regulations
14 respecting the Laws and Customs of War on Land, annexed to
15 the present Convention.

16 ARTICLE II.

17 The provisions contained in the Regulations referred to in
18 Article I, as well as in the present Convention, do not apply
19 except between Contracting Powers, and then only if all the
20 belligerents are parties to the Convention.

21 ARTICLE III.

22 A belligerent party which violates the provisions of the said
23 Regulations shall, if the case demands, be liable to pay compen-
24 sation. It shall be responsible for all acts committed by persons
25 forming part of its armed forces.

26 ARTICLE IV.

27 The present Convention, duly ratified, shall as between the
28 Contracting Powers, be substituted for the Convention of the
29 29th July, 1899, respecting the Laws and Customs of War on
30 Land.

31 The Convention of 1899 remains in force as between the Pow-
32 ers which signed it, and which do not also ratify the present
33 Convention.

34 ARTICLE V.

35 The present Convention shall be ratified as soon as possible.

36 The ratifications shall be deposited at The Hague.

37 The first deposit of ratifications shall be recorded in a *procès-*
38 *verbal* signed by the Representatives of the Powers which take
39 part therein and by the Netherland Minister for Foreign Affairs.

1 The subsequent deposits of ratifications shall be made by means
2 of a written notification, addressed to the Netherland Govern-
3 ment and accompanied by the instrument of ratification.

4 A duly certified copy of the *procès-verbal* relative to the first
5 deposit of ratifications, of the notifications mentioned in the
6 preceding paragraph, as well as of the instruments of ratifica-
7 tion, shall be immediately sent by the Netherland Government,
8 through the diplomatic channel, to the Powers invited to the
9 Second Peace Conference, as well as to the other Powers which
10 have adhered to the Convention. In the cases contemplated in
11 the preceding paragraph the said Government shall at the same
12 time inform them of the date on which it received the notification.

13 ARTICLE VI.

14 Non-Signatory Powers may adhere to the present Convention.

15 The Power which desires to adhere notifies in writing its inten-
16 tion to the Netherland Government, forwarding to it the act of
17 adhesion, which shall be deposited in the archives of the said
18 Government.

19 This Government shall at once transmit to all the other Powers
20 a duly certified copy of the notification as well as of the act of
21 adhesion, mentioning the date on which it received the notifi-
22 cation.

23 ARTICLE VII.

24 The present Convention shall come into force, in the case of
25 the Powers which were a party to the first deposit of ratifications
26 sixty days after the date of the *procès-verbal* of this deposit, and,
27 in the case of the Powers which ratify subsequently or which
28 adhere, sixty days after the notification of their ratification or
29 of their adhesion has been received by the Netherland Govern-
30 ment.

31 ARTICLE VIII.

32 In the event of one of the Contracting Powers wishing to
33 denounce the present Convention, the denunciation shall be
34 notified in writing to the Netherland Government, which shall
35 at once communicate a duly certified copy of the notification to
36 all the other Powers, informing them of the date on which it was
37 received.

1 The denunciation shall only have effect in regard to the noti-
2 fying Power, and one year after the notification has reached the
3 Netherland Government.

4 ARTICLE IX.

5 A register kept by the Netherland Ministry for Foreign Affairs
6 shall give the date of the deposit of ratifications made in virtue
7 of Article V, paragraphs 3 and 4, as well as the date on which the
8 notifications of adhesion (Article VI, paragraph 2) or of denun-
9 ciation (Article VIII, paragraph 1) were received.

10 Each Contracting Power is entitled to have access to this
11 register and to be supplied with duly certified extracts.

12 In faith whereof the Plenipotentiaries have appended their
13 signatures to the present Convention.

14 Done at The Hague, the 18th October, 1907, in a single copy,
15 which shall remain deposited in the archives of the Netherland
16 Government, and duly certified copies of which shall be sent,
17 through the diplomatic channel, to the Powers which have been
18 invited to the Second Peace Conference.

19 ANNEX TO THE CONVENTION.

20 *Regulations respecting the Laws and Customs of War on Land.*

21 SECTION I.—ON BELLIGERENTS.

22 CHAPTER I.—*The Qualifications of Belligerents.*

23 ARTICLE I.

24 THE laws, rights, and duties of war apply not only to armies,
25 but also to militia and volunteer corps fulfilling the following
26 conditions:—

27 1. To be commanded by a person responsible for his subor-
28 dinates;

29 2. To have a fixed distinctive emblem recognizable at a
30 distance;

31 3. To carry arms openly; and

32 4. To conduct their operations in accordance with the laws
33 and customs of war.

34 In countries where militia or volunteer corps constitute the
35 army, or form part of it, they are included under the denomina-
36 tion "army."

1 ARTICLE II.

2 The inhabitants of a territory which has not been occupied,
3 who, on the approach of the enemy, spontaneously take up arms
4 to resist the invading troops without having had time to organ-
5 ize themselves in accordance with Article I, shall be regarded as
6 belligerents if they carry arms openly and if they respect the
7 laws and customs of war.

8 ARTICLE III.

9 The armed forces of the belligerent parties may consist of
10 combatants and noncombatants. In the case of capture by the
11 enemy, both have a right to be treated as prisoners of war.

12 CHAPTER II.—*Prisoners of War.*

13 ARTICLE IV.

14 Prisoners of war are in the power of the hostile Government,
15 but not of the individuals or corps who capture them.

16 They must be humanely treated.

17 All their personal belongings, except arms, horses, and mili-
18 tary papers, remain their property.

19 ARTICLE V.

20 Prisoners of war may be interned in a town, fortress, camp,
21 or other place, and bound not to go beyond certain fixed limits;
22 but they cannot be confined except as an indispensable measure
23 of safety and only while the circumstances which necessitate the
24 measure continue to exist.

25 ARTICLE VI.

26 The State may utilize the labour of prisoners of war according
27 to their rank and aptitude, officers excepted. The tasks shall
28 not be excessive and shall have no connection with the operations
29 of the war.

30 Prisoners may be authorized to work for the public service,
31 for private persons, or on their own account.

32 Work done for the State is paid at the rates in force for work
33 of a similar kind done by soldiers of the national army, or, if
34 there are none in force, at a rate according to the work executed.

35 When the work is for other branches of the public service or
36 for private persons the conditions are settled in agreement with
37 the military authorities.

1 The wages of the prisoners shall go towards improving their
2 position, and the balance shall be paid them on their release,
3 after deducting the cost of their maintenance.

4 ARTICLE VII.

5 The Government into whose hands prisoners of war have fallen
6 is charged with their maintenance.

7 In the absence of a special agreement between the belligerents,
8 prisoners of war shall be treated as regards board, lodging, and
9 clothing on the same footing as the troops of the Government
10 who captured them.

11 ARTICLE VIII.

12 Prisoners of war shall be subject to the laws, regulations,
13 and orders in force in the army of the State in whose power
14 they are. Any act of insubordination justifies the adoption
15 towards them of such measures of severity as may be con-
16 sidered necessary.

17 Escaped prisoners who are retaken before being able to
18 rejoin their own army or before leaving the territory occupied
19 by the army which captured them are liable to disciplinary
20 punishment.

21 Prisoners who, after succeeding in escaping, are again taken
22 prisoners, are not liable to any punishment on account of the
23 previous flight.

24 ARTICLE IX.

25 Every prisoner of war is bound to give, if he is questioned
26 on the subject, his true name and rank, and if he infringes
27 this rule, he is liable to have the advantages given to prisoners
28 of his class curtailed.

29 ARTICLE X.

30 Prisoners of war may be set at liberty on parole if the laws
31 of their country allow, and, in such cases, they are bound, on
32 their personal honour, scrupulously to fulfil, both towards their
33 own Government and the Government by whom they were
34 made prisoners, the engagements they have contracted.

35 In such cases their own Government is bound neither to
36 require of nor accept from them any service incompatible with
37 the parole given.

1

ARTICLE XI.

2 A prisoner of war cannot be compelled to accept his liberty
3 on parole; similarly the hostile Government is not obliged to
4 accede to the request of the prisoner to be set at liberty on
5 parole.

6

ARTICLE XII.

7 Prisoners of war liberated on parole and recaptured bearing
8 arms against the Government to whom they had pledged
9 their honour, or against the allies of that Government, forfeit
10 their right to be treated as prisoners of war, and can be brought
11 before the Courts.

12

ARTICLE XIII.

13 Individuals who follow an army without directly belonging
14 to it, such as newspaper correspondents and reporters, sutlers
15 and contractors, who fall into the enemy's hands and whom
16 the latter thinks expedient to detain, are entitled to be treated
17 as prisoners of war, provided they are in possession of a certifi-
18 cate from the military authorities of the army which they
19 were accompanying.

20

ARTICLE XIV.

21 An inquiry office for prisoners of war is instituted on the
22 commencement of hostilities in each of the belligerent States,
23 and, when necessary, in neutral countries which have received
24 belligerents in their territory. It is the function of this office
25 to reply to all inquiries about the prisoners. It receives from
26 the various services concerned full information respecting
27 internments and transfers, releases on parole, exchanges,
28 escapes, admissions into hospital, deaths, as well as other
29 information necessary to enable it to make out and keep up
30 to date an individual return for each prisoner of war. The
31 office must state in this return the regimental number, name
32 and surname, age, place of origin, rank, unit, wounds, date
33 and place of capture, internment, wounding, and death, as
34 well as any observations of a special character. The indi-
35 vidual return shall be sent to the Government of the other
36 belligerent after the conclusion of peace.

37

It is likewise the function of the inquiry office to receive
38 and collect all objects of personal use, valuables, letters, &c.,
39 found on the field of battle or left by prisoners who have been

1 released on parole, or exchanged, or who have escaped, or
2 died in hospitals or ambulances, and to forward them to those
3 concerned.

4 ARTICLE XV.

5 Relief societies for prisoners of war, which are properly con-
6 stituted in accordance with the laws of their country and with
7 the object of serving as the channel for charitable effort shall
8 receive from the belligerents, for themselves and their duly
9 accredited agents every facility for the efficient performance
10 of their humane task within the bounds imposed by military
11 necessities and administrative regulations. Agents of these
12 societies may be admitted to the places of internment for the
13 purpose of distributing relief, as also to the halting places of
14 repatriated prisoners, if furnished with a personal permit by
15 the military authorities, and on giving an undertaking in writ-
16 ing to comply with all measures of order and police which the
17 latter may issue.

18 ARTICLE XVI.

19 Inquiry offices enjoy the privilege of free postage. Letters,
20 money orders, and valuables, as well as parcels by post, intended
21 for prisoners of war, or dispatched by them, shall be exempt
22 from all postal duties in the countries of origin and destination,
23 as well as in the countries they pass through.

24 Presents and relief in kind for prisoners of war shall be admitted
25 free of all import or other duties, as well as of payments for car-
26 riage by the State railways.

27 ARTICLE XVII.

28 Officers taken prisoners shall receive the same rate of pay as
29 officers of corresponding rank in the country where they are
30 detained, the amount to be ultimately refunded by their own
31 Government.

32 ARTICLE XVIII.

33 Prisoners of war shall enjoy complete liberty in the exercise
34 of their religion, including attendance at the services of what-
35 ever Church they may belong to, on the sole condition that they
36 comply with the measures of order and police issued by the
37 military authorities.

38 ARTICLE XIX.

39 The wills of prisoners of war are received or drawn up in the
40 same way as for soldiers of the national army.

1 The same rules shall be observed regarding death certificates
2 as well as for the burial of prisoners of war, due regard being
3 paid to their grade and rank.

4 ARTICLE XX.

5 After the conclusion of peace, the repatriation of prisoners of
6 war shall be carried out as quickly as possible.

7 CHAPTER III.—*The Sick and Wounded.*

8 ARTICLE XXI.

9 The obligations of belligerents with regard to the sick and
10 wounded are governed by the Geneva Convention.

11 SECTION II.—HOSTILITIES.

12 CHAPTER I.—*Means of Injuring the Enemy, Sieges, and Bom-*
13 *bardments.*

14 ARTICLE XXII.

15 The right of belligerents to adopt means of injuring the enemy
16 is not unlimited.

17 ARTICLE XXIII.

18 In addition to the prohibitions provided by special Conven-
19 tions, it is especially forbidden—

- 20 (a.) To employ poison or poisoned weapons;
21 (b.) To kill or wound treacherously individuals belonging
22 to the hostile nation or army;
23 (c.) To kill or wound an enemy who, having laid down his
24 arms, or having no longer means of defence, has
25 surrendered at discretion;
26 (d.) To declare that no quarter will be given;
27 (e.) To employ arms, projectiles, or material calculated to
28 cause unnecessary suffering;
29 (f.) To make improper use of a flag of truce, of the national
30 flag, or of the military insignia and uniform of the
31 enemy, as well as the distinctive badges of the
32 Geneva Convention;
33 (g.) To destroy or seize the enemy's property, unless such
34 destruction or seizure be imperatively demanded by
35 the necessities of war;
36 (h.) To declare abolished, suspended, or inadmissible in a
37 Court of law the rights and actions of the nationals
38 of the hostile party.

1 A belligerent is likewise forbidden to compel the nationals of
2 the hostile party to take part in the operations of war directed
3 against their own country, even if they were in the belligerent's
4 service before the commencement of the war.

5 ARTICLE XXIV.

6 Ruses of war and the employment of measures necessary for
7 obtaining information about the enemy and the country are
8 considered permissible.

9 ARTICLE XXV.

10 The attack or bombardment, by whatever means, of towns,
11 villages, dwellings, or buildings which are undefended is pro-
12 hibited.

13 ARTICLE XXVI.

14 The officer in command of an attacking force must, before
15 commencing a bombardment, except in cases of assault, do all
16 in his power to warn the authorities.

17 ARTICLE XXVII.

18 In sieges and bombardments all necessary steps must be taken
19 to spare, as far as possible, buildings dedicated to religion, art,
20 science, or charitable purposes, historic monuments, hospitals,
21 and places where the sick and wounded are collected, provided
22 they are not being used at the time for military purposes.

23 It is the duty of the besieged to indicate the presence of such
24 buildings or places by distinctive and visible signs, which shall
25 be notified to the enemy beforehand.

26 ARTICLE XXVIII.

27 The pillage of a town or place, even when taken by assault,
28 is prohibited.

29 CHAPTER II.—*Spies*.

30 ARTICLE XXIX.

31 A person can only be considered a spy when, acting clandes-
32 tinely or on false pretences, he obtains or endeavours to obtain
33 information in the zone of operations of a belligerent, with the
34 intention of communicating it to the hostile party.

35 Thus, soldiers not wearing a disguise who have penetrated
36 into the zone of operations of the hostile army, for the purpose
37 of obtaining information, are not considered spies. Similarly,
38 the following are not considered spies: Soldiers and civilians,

1 carrying out their mission openly, intrusted with the delivery
2 of despatches intended either for their own army or for the
3 enemy's army. To this class belong likewise persons sent in
4 balloons for the purpose of carrying despatches and, generally,
5 of maintaining communications between the different parts of
6 an army or a territory.

7 ARTICLE XXX.

8 A spy taken in the act shall not be punished without previous
9 trial.

10 ARTICLE XXXI.

11 A spy who, after rejoining the army to which he belongs, is
12 subsequently captured by the enemy, is treated as a prisoner
13 of war, and incurs no responsibility for his previous acts of
14 espionage.

15 CHAPTER III.—*Flags of Truce.*

16 ARTICLE XXXII.

17 A person is regarded as bearing a flag of truce who has been
18 authorized by one of the belligerents to enter into communi-
19 cation with the other, and who advances bearing a white flag.
20 He has a right to inviolability, as well as the trumpeter, bugler
21 or drummer, the flag-bearer and interpreter who may accom-
22 pany him.

23 ARTICLE XXXIII.

24 The commander to whom a flag of truce is sent is not in all
25 cases obliged to receive it.

26 He may take all the necessary steps to prevent the envoy
27 taking advantage of his mission to obtain information.

28 In case of abuse, he has the right to detain the envoy tem-
29 porarily.

30 ARTICLE XXXIV.

31 The envoy loses his rights of inviolability if it is proved in
32 a clear and incontestable manner that he has taken advantage
33 of his privileged position to provoke or commit an act of treachery.

34 CHAPTER IV.—*Capitulations.*

35 ARTICLE XXXV.

36 Capitulations agreed upon between the contracting parties
37 must take into account the rules of military honour.

38 Once settled, they must be scrupulously observed by both
39 parties.

CHAPTER V.—*Armistices.*

ARTICLE XXXVI.

An armistice suspends military operations by mutual agreement between the belligerent parties. If its duration is not defined, the belligerent parties may resume operations at any time, provided always that the enemy is warned within the time agreed upon, in accordance with the terms of the armistice.

ARTICLE XXXVII.

An armistice may be general or local. The first suspends the military operations of the belligerent States everywhere; the second only between certain fractions of the belligerent armies and within a fixed radius.

ARTICLE XXXVIII.

An armistice must be notified officially and in good time to the competent authorities and to the troops. Hostilities are suspended immediately after the notification, or on the date fixed.

ARTICLE XXXIX.

It rests with the contracting parties to settle, in the terms of the armistice, what communications may be held in the theatre of war with the inhabitants and between the inhabitants of one belligerent State and those of the other.

ARTICLE XL.

Any serious violation of the armistice by one of the parties gives the other party the right of denouncing it, and even, in cases of urgency, of recommencing hostilities immediately.

ARTICLE XLI.

A violation of the terms of the armistice by private persons acting on their own initiative only entitles the injured party to demand the punishment of the offenders or, if necessary, compensation for the losses sustained.

SECTION III.—MILITARY AUTHORITY OVER THE TERRITORY OF THE HOSTILE STATE.

ARTICLE XLII.

Territory is considered occupied when it is actually placed under the authority of the hostile army.

The occupation extends only to the territory where such authority has been established and can be exercised.

1 ARTICLE XLIII.

2 The authority of the legitimate power having in fact passed
3 into the hands of the occupant, the latter shall take all the
4 measures in his power to restore, and ensure, as far as possible,
5 public order and safety, while respecting, unless absolutely
6 prevented, the laws in force in the country.

7 ARTICLE XLIV.

8 A belligerent is forbidden to force the inhabitants of territory
9 occupied by it to furnish information about the army of the
10 other belligerent, or about its means of defence.

11 ARTICLE XLV.

12 It is forbidden to compel the inhabitants of occupied territory
13 to swear allegiance to the hostile Power.

14 ARTICLE XLVI.

15 Family honour and rights, the lives of persons, and private
16 property, as well as religious convictions and practice, must be
17 respected.

18 Private property cannot be confiscated.

19 ARTICLE XLVII.

20 Pillage is formally forbidden.

21 ARTICLE XLVIII.

22 If, in the territory occupied, the occupant collects the taxes,
23 dues, and tolls imposed for the benefit of the State, he shall do
24 so, as far as is possible, in accordance with the rules of assessment
25 and incidence in force, and shall in consequence be bound to
26 defray the expenses of the administration of the occupied ter-
27 ritory to the same extent as the legitimate Government was so
28 bound.

29 ARTICLE XLIX.

30 If, in addition to the taxes mentioned in the above Article,
31 the occupant levies other money contributions in the occupied
32 territory, this shall only be for the needs of the army or of the
33 administration of the territory in question.

34 ARTICLE L.

35 No general penalty, pecuniary or otherwise, shall be inflicted
36 upon the population on account of the acts of individuals for
37 which they cannot be regarded as jointly and severally respon-
38 sible.

ARTICLE LI.

No contribution shall be collected except under a written order, and on the responsibility of a Commander-in-chief.

The collection of the said contribution shall only be effected as far as possible in accordance with the rules of assessment and incidence of the taxes in force.

For every contribution a receipt shall be given to the contributors.

ARTICLE LII.

Requisitions in kind and services shall not be demanded from municipalities or inhabitants except for the needs of the army of occupation. They shall be in proportion to the resources of the country, and of such a nature as not to involve the inhabitants in the obligation of taking part in military operations against their own country.

Such requisitions and services shall only be demanded on the authority of the commander in the locality occupied.

Contributions in kind shall as far as possible be paid for in cash; if not, a receipt shall be given and the payment of the amount due shall be made as soon as possible.

ARTICLE LIII.

An army of occupation can only take possession of cash, funds, and realizable securities which are strictly the property of the State, depôts of arms, means of transport, stores and supplies, and, generally, all movable property belonging to the State which may be used for military operations.

All appliances, whether on land, at sea, or in the air, adapted for the transmission of news, or for the transport of persons or things, exclusive of cases governed by naval law, depôts of arms, and, generally, all kinds of ammunition of war, may be seized, even if they belong to private individuals, but must be restored and compensation fixed when peace is made.

ARTICLE LIV.

Submarine cables connecting an occupied territory with a neutral territory shall not be seized or destroyed except in the case of absolute necessity. They must likewise be restored and compensation fixed when peace is made.

1 ARTICLE LV.

2 The occupying State shall be regarded only as administrator
3 and usufructuary of public buildings, real estate, forests, and
4 agricultural estates belonging to the hostile State, and situated
5 in the occupied country. It must safeguard the capital of
6 these properties, and administer them in accordance with the
7 rules of usufruct.

8 ARTICLE LVI.

9 The property of municipalities, that of institutions dedicated
10 to religion, charity and education, the arts and sciences, even
11 when State property, shall be treated as private property.
12 All seizure of, destruction or wilful damage done to institu-
13 tions of this character, historic monuments, works of art and
14 science, is forbidden, and should be made the subject of legal
15 proceedings.

RIGHTS AND DUTIES OF NEUTRAL POWERS.

A CONVENTION SIGNED BY THE DELEGATES OF THE UNITED STATES TO THE SECOND INTERNATIONAL PEACE CONFERENCE HELD AT THE HAGUE FROM JUNE 15 TO OCTOBER 18, 1907, RESPECTING THE RIGHTS AND DUTIES OF NEUTRAL POWERS AND PERSONS IN CASE OF WAR ON LAND.

FEBRUARY 27, 1908.—Read; convention read the first time and referred to the Committee on Foreign Relations, and, together with the message and accompanying papers, ordered to be printed in confidence for the use of the Senate.

MARCH 10, 1908.—Ratified.

1 His Majesty the German Emperor, King of Prussia; the
2 President of the United States of America; the President of the
3 Argentine Republic; His Majesty the Emperor of Austria, King
4 of Bohemia, &c., and Apostolic King of Hungary; His Majesty
5 the King of the Belgians; the President of the Republic of
6 Bolivia; the President of the Republic of the United States of
7 Brazil; His Royal Highness the Prince of Bulgaria; the Presi-
8 dent of the Republic of Chile; His Majesty the Emperor of
9 China; the President of the Republic of Colombia; the Provi-
10 sional Governor of the Republic of Cuba; His Majesty the King
11 of Denmark; the President of the Dominican Republic; the
12 President of the Republic of Ecuador; His Majesty the King of
13 Spain; the President of the French Republic; His Majesty the
14 King of the United Kingdom of Great Britain and Ireland and
15 of the British Dominions beyond the Seas, Emperor of India;
16 His Majesty the King of the Hellenes; the President of the
17 Republic of Guatemala; the President of the Republic of Haiti;
18 His Majesty the King of Italy; His Majesty the Emperor of
19 Japan; His Royal Highness the Grand Duke of Luxemburg,

1 Duke of Nassau; the President of the United States of Mexico;
2 His Royal Highness the Prince of Montenegro; the President
3 of the Republic of Nicaragua; His Majesty the King of Norway;
4 the President of the Republic of Panamá; the President of the
5 Republic of Paraguay; Her Majesty the Queen of the Nether-
6 lands; the President of the Republic of Peru; His Imperial
7 Majesty the Shah of Persia; His Majesty the King of Portugal
8 and of the Algarves, &c.; His Majesty the King of Roumania;
9 His Majesty the Emperor of All the Russias; the President of
10 the Republic of Salvador; His Majesty the King of Servia; His
11 Majesty the King of Siam; His Majesty the King of Sweden;
12 the Swiss Federal Council; His Majesty the Emperor of the
13 Ottomans; the President of the Oriental Republic of Uruguay;
14 the President of the United States of Venezuela:

15 With a view to laying down more clearly the rights and duties
16 of neutral Powers in case of war on land and regulating the
17 position of the belligerents who have taken refuge in neutral
18 territory;

19 Being likewise desirous of defining the meaning of the term
20 "neutral," pending the possibility of settling, in its entirety,
21 the position of neutral individuals in their relations with the
22 belligerents;

23 Have resolved to conclude a Convention to this effect, and
24 have, in consequence, appointed the following as their Pleni-
25 potentiaries:

26 [For names of plenipotentiaries, see Final Act, supra.]

27 Who, after having deposited their full powers, found in good
28 and due form, have agreed upon the following provisions:—

29 CHAPTER I.—*The Rights and Duties of Neutral Powers.*

30 ARTICLE I.

31 The territory of neutral Powers is inviolable.

32 ARTICLE II.

33 Belligerents are forbidden to move troops or convoys of either
34 munitions of war or supplies across the territory of a neutral
35 Power.

ARTICLE III.

Belligerents are likewise forbidden to:

(a.) Erect on the territory of a neutral Power a wireless telegraphy station or other apparatus for the purpose of communicating with belligerent forces on land or sea;

(b.) Use any installation of this kind established by them before the war on the territory of a neutral Power for purely military purposes, and which has not been opened for the service of public messages.

ARTICLE IV.

Corps of combatants cannot be formed nor recruiting agencies opened on the territory of a neutral Power to assist the belligerents.

ARTICLE V.

A neutral Power must not allow any of the acts referred to in Articles II to IV to occur on its territory.

It is not called upon to punish acts in violation of its neutrality unless the said acts have been committed on its own territory.

ARTICLE VI.

The responsibility of a neutral Power is not engaged by the fact of persons crossing the frontier separating to offer their services to one of the belligerents.

ARTICLE VII.

A neutral Power is not called upon to prevent the export or transport, on behalf of one or other of the belligerents, of arms, munitions of war, or, in general, of anything which can be of use to an army or a fleet.

ARTICLE VIII.

A neutral Power is not called upon to forbid or restrict the use on behalf of the belligerents of telegraph or telephone cables or of wireless telegraphy apparatus belonging to it or to Companies or private individuals.

ARTICLE IX.

Every measure of restriction or prohibition taken by a neutral Power in regard to the matters referred to in Articles VII and VIII must be impartially applied by it to both belligerents.

1 A neutral Power must see to the same obligation being ob-
2 served by Companies or private individuals owning telegraph or
3 telephone cables or wireless telegraphy apparatus.

4 ARTICLE X.

5 The fact of a neutral Power resisting, even by force, attempts
6 to violate its neutrality cannot be regarded as a hostile act.

7 CHAPTER II.—*Belligerents Interned and Wounded tended in*
8 *Neutral Territory.*

9 ARTICLE XI.

10 A neutral Power which receives on its territory troops belong-
11 ing to the belligerent armies shall intern them, as far as possible,
12 at a distance from the theatre of war.

13 It may keep them in camps and even confine them in fortresses
14 or in places set apart for this purpose.

15 It shall decide whether officers can be left at liberty on giving
16 their parole not to leave the neutral territory without permission.

17 ARTICLE XII.

18 In the absence of a special Convention to the contrary, the
19 neutral Power shall supply the interned with the food, clothing,
20 and relief required by humanity.

21 At the conclusion of peace the expenses caused by the intern-
22 ment shall be made good.

23 ARTICLE XIII.

24 A neutral Power which receives escaped prisoners of war shall
25 leave them at liberty. If it allows them to remain in its territory
26 it may assign them a place of residence.

27 The same rule applies to prisoners of war brought by troops
28 taking refuge in the territory of a neutral Power.

29 ARTICLE XIV.

30 A neutral Power may authorize the passage into its territory
31 of the sick and wounded belonging to the belligerent armies, on
32 condition that the trains bringing them shall carry neither per-
33 sonnel or war material. In such a case, the neutral Power is
34 bound to take whatever measures of safety and control are
35 necessary for the purpose.

36 The sick or wounded brought under these conditions into
37 neutral territory by one of the belligerents, and belonging to the

1 hostile party, must be guarded by the neutral Power so as to
2 ensure their not taking part again in the military operations.
3 The same duty shall devolve on the neutral State with regard
4 to wounded or sick of the other army who may be committed to
5 its care.

6 ARTICLE XV.

7 The Geneva Convention applies to sick and wounded interned
8 in neutral territory.

9 CHAPTER III.—*Neutral Persons.*

10 ARTICLE XVI.

11 The nationals of a State which is not taking part in the war
12 are considered as neutrals.

13 ARTICLE XVII.

14 A neutral cannot avail himself of his neutrality:

15 (a.) If he commits hostile acts against a belligerent;

16 (b.) If he commits acts in favour of a belligerent, particu-
17 larly if he voluntarily enlists in the ranks of the armed
18 force of one of the parties.

19 In such a case, the neutral shall not be more severely treated
20 by the belligerent as against whom he has abandoned his neu-
21 trality than a national of the other belligerent State could be
22 for the same act.

23 ARTICLE XVIII.

24 The following acts shall not be considered as committed in
25 favour of one belligerent in the sense of Article XVII, letter (b):

26 (a.) Supplies furnished or loans made to one of the belliger-
27 ents, provided that the person who furnishes the
28 supplies or who makes the loans lives neither in the
29 territory of the other party nor in the territory occu-
30 pied by him, and that the supplies do not come from
31 these territories;

32 (b.) Services rendered in matters of police or civil adminis-
33 tration.

34 CHAPTER IV.—*Railway Material.*

35 ARTICLE XIX.

36 Railway material coming from the territory of neutral Powers,
37 whether it be the property of the said Powers or of Companies
38 or private persons, and recognizable as such, shall not be requi-

1 sitioned or utilized by a belligerent except where and to the
2 extent that it is absolutely necessary. It shall be sent back as
3 soon as possible to the country of origin.

4 A neutral Power may likewise, in case of necessity, retain and
5 utilize to an equal extent material coming from the territory of
6 the belligerent Power.

7 Compensation shall be paid by one party or the other in pro-
8 portion to the material used, and to the period of usage.

9 CHAPTER V.—*Final Provisions.*

10 ARTICLE XX.

11 The provisions of the present Convention do not apply except
12 between Contracting Powers, and then only if all the belligerents
13 are parties to the Convention.

14 ARTICLE XXI.

15 The present Convention shall be ratified as soon as possible.

16 The ratifications shall be deposited at The Hague.

17 The first deposit of ratifications shall be recorded in a *procès-*
18 *verbal* signed by the Representatives of the Powers which take
19 part therein and by the Netherland Minister for Foreign Affairs.

20 The subsequent deposits of ratifications shall be made by
21 means of a written notification, addressed to the Netherland
22 Government and accompanied by the instrument of ratification.

23 A duly certified copy of the *procès-verbal* relative to the first
24 deposit of ratifications, of the notifications mentioned in the
25 preceding paragraph, and of the instruments of ratification
26 shall be immediately sent by the Netherland Government,
27 through the diplomatic channel, to the Powers invited to the
28 Second Peace Conference as well as to the other Powers which
29 have adhered to the Convention. In the cases contemplated
30 in the preceding paragraph, the said Government shall at the
31 same time inform them of the date on which it received the
32 notification.

33 ARTICLE XXII.

34 Non-Signatory Powers may adhere to the present Convention.

35 The Power which desires to adhere notifies its intention in
36 writing to the Netherland Government, forwarding to it the act
37 of adhesion, which shall be deposited in the archives of the said
38 Government.

1 This Government shall immediately forward to all the other
2 Powers a duly certified copy of the notification as well as of the
3 act of adhesion, mentioning the date on which it received the
4 notification.

5 ARTICLE XXIII.

6 The present Convention shall come into force, in the case of
7 the Powers which were a party to the first deposit of ratifications,
8 sixty days after the date of the *procès-verbal* of this deposit, and,
9 in the case of the Powers which ratify subsequently or which
10 adhere, sixty days after the notification of their ratification or
11 of their adhesion has been received by the Netherland Govern-
12 ment.

13 ARTICLE XXIV.

14 In the event of one of the Contracting Powers wishing to
15 denounce the present Convention, the denunciation shall be noti-
16 fied in writing to the Netherland Government, which shall imme-
17 diately communicate a duly certified copy of the notification to
18 all the other Powers, informing them at the same time of the date
19 on which it was received.

20 The denunciation shall only have effect in regard to the notify-
21 ing Power, and one year after the notification has reached the
22 Netherland Government.

23 ARTICLE XXV.

24 A register kept by the Netherland Ministry of Foreign Affairs
25 shall give the date of the deposit of ratifications made in virtue
26 of Article XXI, paragraphs 3 and 4, as well as the date on which
27 the notifications of adhesion (Article XXII, paragraph 2) or of
28 denunciation (Article XXIV, paragraph 1) have been received.

29 Each Contracting Power is entitled to have access to this regis-
30 ter and to be supplied with duly certified extracts from it.

31 In faith whereof the Plenipotentiaries have appended their
32 signatures to the present Convention.

33 Done at the Hague, the 18th October, 1907, in a single copy,
34 which shall remain deposited in the archives of the Netherland
35 Government, and duly certified copies of which shall be sent,
36 through the diplomatic channel, to the Powers which have been
37 invited to the Second Peace Conference.

SUBMARINE CONTACT MINES.

A CONVENTION SIGNED BY THE DELEGATES OF THE UNITED STATES TO THE SECOND INTERNATIONAL PEACE CONFERENCE HELD AT THE HAGUE FROM JUNE 15 TO OCTOBER 18, 1907, RELATIVE TO THE LAYING OF AUTOMATIC SUBMARINE CONTACT MINES.

FEBRUARY 27, 1908.—Read; convention read the first time and referred to the Committee on Foreign Relations, and, together with the message and accompanying papers, ordered to be printed in confidence for the use of the Senate.

MARCH 10, 1908.—Ratified.

1 His Majesty the German Emperor, King of Prussia; the Presi-
2 dent of the United States of America; the President of the
3 Argentine Republic; His Majesty the Emperor of Austria,
4 King of Bohemia, &c., and Apostolic King of Hungary; His
5 Majesty the King of the Belgians; the President of the Repub-
6 lic of Bolivia; the President of the Republic of the United States
7 of Brazil; His Royal Highness the Prince of Bulgaria; the
8 President of the Republic of Chile; His Majesty the Emperor
9 of China; the President of the Republic of Colombia; the Pro-
10 visional Governor of the Republic of Cuba; His Majesty the
11 King of Denmark; the President of the Dominican Republic;
12 the President of the Republic of Ecuador; His Majesty the King
13 of Spain; the President of the French Republic; His Majesty
14 the King of the United Kingdom of Great Britain and Ireland
15 and of the British Dominions beyond the Seas, Emperor of
16 India; His Majesty the King of the Hellenes; the President of
17 the Republic of Guatemala; the President of the Republic of
18 Haiti; His Majesty the King of Italy; His Majesty the Emperor
19 of Japan; His Royal Highness the Grand Duke of Luxemburg,
20 Duke of Nassau; the President of the United States of Mexico;
21 His Royal Highness the Prince of Montenegro; the President
22 of the Republic of Nicaragua; His Majesty the King of Nor-
23 way; the President of the Republic of Panamá; the President
24 of the Republic of Paraguay; Her Majesty the Queen of the
25 Netherlands; the President of the Republic of Peru; His

1 Imperial Majesty the Shah of Persia; His Majesty the King
2 of Portugal and of the Algarves, &c.; His Majesty the King of
3 Roumania; His Majesty the Emperor of All the Russias; the
4 President of the Republic of Salvador; His Majesty the King
5 of Servia; His Majesty the King of Siam; His Majesty the King
6 of Sweden; the Swiss Federal Council; His Majesty the Emperor
7 of the Ottomans; the President of the Oriental Republic of
8 Uruguay; the President of the United States of Venezuela:

9 Inspired by the principle of the freedom of sea routes, the com-
10 mon highways of all nations;

11 Seeing that, although the existing position of affairs makes
12 it impossible to forbid the employment of automatic submarine
13 contact mines, it is nevertheless desirable to restrict and regu-
14 late their employment in order to mitigate the severity of war
15 and to ensure, as far as possible, to peaceful navigation the secur-
16 ity to which it is entitled, despite the existence of war;

17 Until such time as it is found possible to formulate rules on
18 the subject which shall ensure to the interests involved all the
19 guarantees desirable;

20 Have resolved to conclude a Convention for this purpose, and
21 have appointed the following as their Plenipotentiaries:

22 [For names of Plenipotentiaries, see Final Act, supra.]

23 Who, after having deposited their full powers, found in good
24 and due form, have agreed upon the following provisions:—

25 ARTICLE I.

26 It is forbidden:

27 1. To lay unanchored automatic contact mines, except when
28 they are so constructed as to become harmless one hour at most
29 after the person who laid them ceases to control them;

30 2. To lay anchored automatic contact mines which do not
31 become harmless as soon as they have broken loose from their
32 moorings;

33 3. To use torpedoes which do not become harmless when they
34 have missed their mark.

35 ARTICLE II.

36 It is forbidden to lay automatic contact mines off the coast
37 and ports of the enemy, with the sole object of intercepting
38 commercial shipping.

1 ARTICLE III.

2 When anchored automatic contact mines are employed,
3 every possible precaution must be taken for the security of
4 peaceful shipping.

5 The belligerents undertake to do their utmost to render these
6 mines harmless within a limited time, and, should they cease
7 to be under surveillance, to notify the danger zones as soon as
8 military exigencies permit, by a notice addressed to ship owners,
9 which must also be communicated to the Governments through
10 the diplomatic channel.

11 ARTICLE IV.

12 Neutral Powers which lay automatic contact mines off their
13 coasts must observe the same rules and take the same precau-
14 tions as are imposed on belligerents.

15 The neutral Power must inform ship-owners, by a notice
16 issued in advance, where automatic contact mines have been
17 laid. This notice must be communicated at once to the Gov-
18 ernments through the diplomatic channel.

19 ARTICLE V.

20 At the close of the war, the Contracting Powers undertake to
21 do their utmost to remove the mines which they had laid, each
22 Power removing its own mines.

23 As regards anchored automatic contact mines laid by one of
24 the belligerents off the coast of the other, their position must
25 be notified to the other party by the Power which laid them,
26 and each Power must proceed with the least possible delay to
27 remove the mines in its own waters.

28 ARTICLE VI.

29 The Contracting Powers which do not at present own per-
30 fected mines of the pattern contemplated in the present Con-
31 vention, and which, consequently, could not at present carry
32 out the rules laid down in Articles I and III, undertake to con-
33 vert the *matériel* of their mines as soon as possible, so as to
34 bring it into conformity with the foregoing requirements.

35 ARTICLE VII.

36 The provisions of the present Convention do not apply except
37 between Contracting Powers, and then only if all the belliger-
38 ents are parties to the Convention.

ARTICLE VIII.

The present Convention shall be ratified as soon as possible.

The ratifications shall be deposited at The Hague.

The first deposit of ratifications shall be recorded in a *procès-verbal* signed by the Representatives of the Powers which take part therein and by the Netherland Minister for Foreign Affairs.

The subsequent deposits of ratifications shall be made by means of a written notification addressed to the Netherland Government and accompanied by the instrument of ratification.

A duly certified copy of the *procès-verbal* relative to the first deposit of ratifications, of the notifications mentioned in the preceding paragraph, as well as of the instruments of ratification, shall be at once sent, by the Netherland Government, through the diplomatic channel, to the Powers invited to the Second Peace Conference, as well as to the other Powers which have adhered to the Convention. In the cases contemplated in the preceding paragraph, the said Government shall inform them at the same time of the date on which it has received the notification.

ARTICLE IX.

Non-Signatory Powers may adhere to the present Convention

The Power which desires to adhere notifies in writing its intention to the Netherland Government, transmitting to it the act of adhesion, which shall be deposited in the archives of the said Government.

This Government shall at once transmit to all the other Powers a duly certified copy of the notification as well as of the act of adhesion, stating the date on which it received the notification.

ARTICLE X.

The present Convention shall come into force, in the case of the Powers which were a party to the first deposit of ratifications, sixty days after the date of the *procès-verbal* of this deposit, and, in the case of the Powers which ratify subsequently or adhere, sixty days after the notification of their ratification or of their adhesion has been received by the Netherland Government.

1 ARTICLE XI.

2 The present Convention shall remain in force for seven years,
3 dating from the sixtieth day after the date of the first deposit
4 of ratifications.

5 Unless denounced, it shall continue in force after the expira-
6 tion of this period.

7 The denunciation shall be notified in writing to the Netherland
8 Government, which shall at once communicate a duly certified
9 copy of the notification to all the Powers, informing them of the
10 date on which it was received.

11 The denunciation shall only have effect in regard to the
12 notifying Power, and six months after the notification has
13 reached the Netherland Government.

14 ARTICLE XII.

15 The Contracting Powers undertake to reopen the question of
16 the employment of automatic contact mines six months before
17 the expiration of the period contemplated in the first paragraph
18 of the preceding Article, in the event of the question not having
19 been already reopened and settled by the Third Peace Conference.

20 If the Contracting Powers conclude a fresh Convention relative
21 to the employment of mines, the present Convention shall cease
22 to be applicable from the moment it comes into force.

23 ARTICLE XIII.

24 A register kept by the Netherland Ministry for Foreign Affairs
25 shall give the date of the deposit of ratifications made in virtue
26 of Article VIII, paragraphs 3 and 4, as well as the date on which
27 the notifications of adhesion (Article IX, paragraph 2) or of
28 denunciation (Article XI, paragraph 3) have been received.

29 Each Contracting Power is entitled to have access to this reg-
30 ister and to be supplied with duly certified extracts from it.

31 In faith whereof the Plenipotentiaries have appended their
32 signatures to the present Convention.

33 Done at The Hague, the 18th October, 1907, in a single copy,
34 which shall remain deposited in the archives of the Netherland
35 Government, and duly certified copies of which shall be sent,
36 through the diplomatic channel, to the Powers which have been
37 invited to the Second Peace Conference.

BOMBARDMENT BY NAVAL FORCES.

A CONVENTION SIGNED BY THE DELEGATES OF THE UNITED STATES TO THE SECOND INTERNATIONAL PEACE CONFERENCE HELD AT THE HAGUE FROM JUNE 15 TO OCTOBER 18, 1907, RESPECTING BOMBARDMENT BY NAVAL FORCES IN TIME OF WAR.

FEBRUARY 27, 1908.—Read; convention read the first time and referred to the Committee on Foreign Relations, and, together with the message and accompanying papers, ordered to be printed in confidence for the use of the Senate.

MARCH 10, 1908.—Ratified.

1 His Majesty the German Emperor, King of Prussia; the
2 President of the United States of America; the President of
3 the Argentine Republic; His Majesty the Emperor of Austria,
4 King of Bohemia, &c., and Apostolic King of Hungary; His
5 Majesty the King of the Belgians; the President of the Republic
6 of Bolivia; the President of the Republic of the United States
7 of Brazil; His Royal Highness the Prince of Bulgaria; the
8 President of the Republic of Chile; His Majesty the Emperor
9 of China; the President of the Republic of Colombia; the
10 Provisional Governor of the Republic of Cuba; His Majesty
11 the King of Denmark; the President of the Dominican Republic;
12 the President of the Republic of Ecuador; His Majesty the King
13 of Spain; the President of the French Republic; His Majesty
14 the King of the United Kingdom of Great Britain and Ireland
15 and of the British Dominions beyond the Seas, Emperor of India;
16 His Majesty the King of the Hellenes; the President of the
17 Republic of Guatemala; the President of the Republic of Haiti;
18 His Majesty the King of Italy; His Majesty the Emperor of
19 Japan; His Royal Highness the Grand Duke of Luxemburg,
20 Duke of Nassau; the President of the United States of Mexico;
21 His Royal Highness the Prince of Montenegro; the President of
22 the Republic of Nicaragua; His Majesty the King of Norway;
23 the President of the Republic of Panamá; the President of the
24 Republic of Paraguay; Her Majesty the Queen of the Nether-
25 lands; the President of the Republic of Peru; His Imperial

1 Majesty the Shah of Persia; His Majesty the King of Portugal
2 and of the Algarves, &c.; His Majesty the King of Roumania;
3 His Majesty the Emperor of All the Russias; the President of
4 the Republic of Salvador; His Majesty the King of Servia; His
5 Majesty the King of Siam; His Majesty the King of Sweden;
6 the Swiss Federal Council; His Majesty the Emperor of the
7 Ottomans; the President of the Oriental Republic of Uruguay;
8 the President of the United States of Venezuela:

9 Animated by the desire to realize the wish expressed by the
10 First Peace Conference respecting the bombardment by naval
11 forces of undefended ports, towns, and villages;

12 Whereas it is expedient that bombardments by naval forces
13 should be subject to rules of general application which would
14 safeguard the rights of the inhabitants and assure the preser-
15 vation of the more important buildings, by applying as far as
16 possible to this operation of war the principles of the Regulation
17 of 1899 respecting the Laws and Customs of Land War;

18 Actuated, accordingly, by the desire to serve the interests of
19 humanity and to diminish the severity and disasters of war;

20 Have resolved to conclude a Convention to this effect, and
21 have, for this purpose, appointed the following as their Pleni-
22 potentiaries:—

23 [For names of Plenipotentiaries, see Final Act, *supra*.]

24 Who, after depositing their full powers, found in good and
25 due form, have agreed upon the following provisions:—

26 CHAPTER I.—*The Bombardment of Undefended Ports, Towns,*
27 *Villages, Dwellings, or Buildings.*

28 ARTICLE I.

29 The bombardment by naval forces of undefended ports, towns,
30 villages, dwellings, or buildings is forbidden.

31 A place cannot be bombarded solely because automatic
32 submarine contact mines are anchored off the harbour.

33 ARTICLE II.

34 Military works, military or naval establishments, dépôts
35 of arms or war *matériel*, workshops or plant which could be
36 utilized for the needs of the hostile fleet or army, and the ships
37 of war in the harbour, are not, however, included in this pro-
38 hibition. The commander of a naval force may destroy them
39 with artillery, after a summons followed by a reasonable time

1 of waiting, if all other means are impossible, and when the
2 local authorities have not themselves destroyed them within
3 the time fixed.

4 He incurs no responsibility for any unavoidable damage
5 which may be caused by a bombardment under such circum-
6 stances.

7 If for military reasons immediate action is necessary, and
8 no delay can be allowed the enemy, it is understood that the
9 prohibition to bombard the undefended town holds good,
10 as in the case given in paragraph 1, and that the commander
11 shall take all due measures in order that the town may suffer
12 as little harm as possible.

13 ARTICLE III.

14 After due notice has been given, the bombardment of un-
15 defended ports, towns, villages, dwellings, or buildings may
16 be commenced, if the local authorities, after a formal summons
17 has been made to them, decline to comply with requisitions
18 for provisions or supplies necessary for the immediate use of
19 the naval force before the place in question.

20 These requisitions shall be in proportion to the resources
21 of the place. They shall only be demanded in the name of the
22 commander of the said naval force, and they shall, as far as
23 possible, be paid for in cash; if not, they shall be evidenced
24 by receipts.

25 ARTICLE IV.

26 Undefended ports, towns, villages, dwellings, or buildings
27 may not be bombarded on account of failure to pay money
28 contributions.

29 CHAPTER II.—*General Provisions.*

30 ARTICLE V.

31 In bombardments by naval forces all the necessary measures
32 must be taken by the commander to spare as far as possible
33 sacred edifices, buildings used for artistic, scientific, or chari-
34 table purposes, historic monuments, hospitals, and places where
35 the sick or wounded are collected, on the understanding that
36 they are not used at the same time for military purposes.

37 It is the duty of the inhabitants to indicate such monuments,
38 edifices, or places by visible signs, which shall consist of large
39 stiff rectangular panels divided diagonally into two coloured

1 triangular portions, the upper portion black, the lower portion
2 white.

3 ARTICLE VI.

4 If the military situation permits, the commander of the
5 attacking naval force, before commencing the bombardment,
6 must do his utmost to warn the authorities.

7 ARTICLE VII.

8 A town or place, even when taken by storm, may not be
9 pillaged.

10 CHAPTER III.—*Final Provisions.*

11 ARTICLE VIII.

12 The provisions of the present Convention do not apply except
13 between Contracting Powers, and then only if all the belligerents
14 are parties to the Convention.

15 ARTICLE IX.

16 The present Convention shall be ratified as soon as possible.
17 The ratifications shall be deposited at The Hague.

18 The first deposit of ratifications shall be recorded in a *procès-*
19 *verbal* signed by the Representatives of the Powers which take
20 part therein and by the Netherland Minister of Foreign Affairs.

21 The subsequent deposits of ratifications shall be made by
22 means of a written notification addressed to the Netherland Gov-
23 ernment and accompanied by the instrument of ratification.

24 A duly certified copy of the *procès-verbal* relative to the first
25 deposit of ratifications, of the notifications mentioned in the
26 preceding paragraph, as well as of the instruments of ratifica-
27 tion, shall be at once sent by the Netherland Government,
28 through the diplomatic channel, to the Powers invited to the
29 Second Peace Conference, as well as to the other Powers which
30 have adhered to the Convention. In the cases contemplated in
31 the preceding paragraph, the said Government shall inform them
32 at the same time of the date on which it received the notification.

33 ARTICLE X.

34 Non-Signatory Powers may adhere to the present Convention.

35 The Power which desires to adhere shall notify its intention
36 to the Netherland Government, forwarding to it the act of ad-
37 hesion, which shall be deposited in the archives of the said Gov-
38 ernment.

1 This Government shall immediately forward to all the other
2 Powers a duly certified copy of the notification, as well as of the
3 act of adhesion, mentioning the date on which it received the
4 notification.

5 ARTICLE XI.

6 The present Convention shall come into force, in the case of
7 the Powers which were a party to the first deposit of ratifications,
8 sixty days after the date of the *procès-verbal* of that deposit, and,
9 in the case of the Powers which ratify subsequently or which
10 adhere, sixty days after the notification of their ratification or
11 of their adhesion has been received by the Netherland Govern-
12 ment.

13 ARTICLE XII.

14 In the event of one of the contracting Powers wishing to de-
15 nounce the present Convention, the denunciation shall be notified
16 in writing to the Netherland Government, which shall at once
17 communicate a duly certified copy of the notification to all the
18 other Powers informing them of the date on which it was re-
19 ceived.

20 The denunciation shall only have effect in regard to the noti-
21 fying Power, and one year after the notification has reached the
22 Netherland Government.

23 ARTICLE XIII.

24 A register kept by the Netherland Minister for Foreign Affairs
25 shall give the date of the deposit of ratifications made in virtue
26 of Article IX, paragraphs 3 and 4, as well as the date on which
27 the notifications of adhesion (Article X, paragraph 2) or of de-
28 nunciation (Article XII, paragraph 1) have been received.

29 Each Contracting Power is entitled to have access to this regis-
30 ter and to be supplied with duly certified extracts from it.

31 In faith whereof the Plenipotentiaries have appended their
32 signatures to the present Convention.

33 Done at The Hague, the 18th October, 1907, in a single copy,
34 which shall remain deposited in the archives of the Netherland
35 Government, and duly certified copies of which shall be sent,
36 through the diplomatic channel, to the Powers which have been
37 invited to the Second Peace Conference.

NAVAL WAR AND THE GENEVA CONVENTION.

A CONVENTION SIGNED BY THE DELEGATES OF THE UNITED STATES TO THE SECOND INTERNATIONAL PEACE CONFERENCE HELD AT THE HAGUE FROM JUNE 15 TO OCTOBER 18, 1907, FOR THE ADAPTATION TO NAVAL WAR OF THE PRINCIPLES OF THE GENEVA CONVENTION.

FEBRUARY 27, 1908.—Read; convention read the first time and referred to the Committee on Foreign Relations, and, together with the message and accompanying papers, ordered to be printed in confidence for the use of the Senate.

MARCH 10, 1908.—Ratified.

1 His Majesty the German Emperor, King of Prussia; the Presi-
2 dent of the United States of America; the President of the Argen-
3 tine Republic; His Majesty the Emperor of Austria, King of
4 Bohemia, &c., and Apostolic King of Hungary; His Majesty
5 the King of the Belgians; the President of the Republic of
6 Bolivia; the President of the Republic of the United States of
7 Brazil; His Royal Highness the Prince of Bulgaria; the President
8 of the Republic of Chile; His Majesty the Emperor of China; the
9 President of the Republic of Colombia; the Provisional Governor
10 of the Republic of Cuba; His Majesty the King of Denmark; the
11 President of the Dominican Republic; the President of the
12 Republic of Ecuador; His Majesty the King of Spain; the
13 President of the French Republic; His Majesty the King of
14 the United Kingdom of Great Britain and Ireland and of the
15 British Dominions beyond the Seas, Emperor of India; His
16 Majesty the King of the Hellenes; the President of the Republic
17 of Guatemala; the President of the Republic of Haïti; His
18 Majesty the King of Italy; His Majesty the Emperor of Japan;
19 His Royal Highness the Grand Duke of Luxemburg, Duke of
20 Nassau; the President of the United States of Mexico; His
21 Royal Highness the Prince of Montenegro; the President of
22 the Republic of Nicaragua; His Majesty the King of Norway;
23 the President of the Republic of Panamá; the President of the

1 Republic of Paraguay; Her Majesty the Queen of the Nether-
2 lands; the President of the Republic of Peru; His Imperial
3 Majesty the Shah of Persia; His Majesty the King of Portugal
4 and of the Algarves, &c.; His Majesty the King of Roumania;
5 His Majesty the Emperor of All the Russias; the President of
6 the Republic of Salvador; His Majesty the King of Servia;
7 His Majesty the King of Siam; His Majesty the King of Sweden;
8 the Swiss Federal Council; His Majesty the Emperor of the
9 Ottomans; the President of the Oriental Republic of Uruguay;
10 the President of the United States of Venezuela:

11 Animated alike by the desire to diminish, as far as depends
12 on them, the inevitable evils of war;

13 And wishing with this object to adapt to maritime warfare
14 the principles of the Geneva Convention of the 6th July, 1906;

15 Have resolved to conclude a Convention for the purpose of
16 revising the Convention of the 29th July, 1899, relative to this
17 question, and have appointed the following as their Plenipo-
18 tentiaries:

19 [For names of Plenipotentiaries see Final Act, supra.]

20 Who, after having deposited their full powers, found in good
21 and due form, have agreed upon the following provisions:—

22 ARTICLE I.

23 Military hospital-ships, that is to say, ships constructed or
24 assigned by States specially and solely with a view to assisting
25 the wounded, sick, and shipwrecked, the names of which have
26 been communicated to the belligerent Powers at the commence-
27 ment or during the course of hostilities, and in any case before
28 they are employed, shall be respected, and cannot be captured
29 while hostilities last.

30 These ships, moreover, are not on the same footing as war-
31 ships as regards their stay in a neutral port.

32 ARTICLE II.

33 Hospital-ships, equipped wholly or in part at the expense of
34 private individuals or officially recognized relief societies, shall
35 be likewise respected and exempt from capture, if the belligerent
36 Power to whom they belong has given them an official commis-
37 sion and has notified their names to the hostile Power at the
38 commencement of or during hostilities, and in any case before
39 they are employed.

1 These ships must be provided with a certificate from the com-
2 petent authorities declaring that the vessels have been under
3 their control while fitting out and on final departure.

4 ARTICLE III.

5 Hospital-ships, equipped wholly or in part at the expense of
6 private individuals or officially recognized societies of neutral
7 countries, shall be respected and exempt from capture, on con-
8 dition that they are placed under the control of one of the bel-
9 ligerents, with the previous consent of their own Government
10 and with the authorization of the belligerent himself, and that
11 the latter has notified their name to his adversary at the com-
12 mencement of or during hostilities, and in any case, before they
13 are employed.

14 ARTICLE IV.

15 The ships mentioned in Articles I, II, and III shall afford relief
16 and assistance to the wounded, sick, and shipwrecked of the bel-
17 ligerents without distinction of nationality.

18 The Governments undertake not to use these ships for any
19 military purpose.

20 These vessels must in no wise hamper the movements of the
21 combatants.

22 During and after an engagement they will act at their own
23 risk and peril.

24 The belligerents shall have the right to control and search them;
25 they can refuse to help them, order them off, make them take a
26 certain course, and put a Commissioner on board; they can even
27 detain them, if important circumstances require it.

28 As far as possible, the belligerents shall enter in the log of
29 the hospital-ships the orders which they give them.

30 ARTICLE V.

31 Military hospital-ships shall be distinguished by being painted
32 white outside with a horizontal band of green about a metre
33 and a-half in breadth.

34 The ships mentioned in Articles II and III shall be distinguished
35 by being painted white outside with a horizontal band of red
36 about a metre and a-half in breadth.

37 The boats of the ships above mentioned, as also small craft
38 which may be used for hospital work, shall be distinguished by
39 similar painting.

1 All hospital-ships shall make themselves known by hoisting,
2 with their national flag, the white flag with a red cross provided
3 by the Geneva Convention, and further, if they belong to a neu-
4 tral State, by flying at the mainmast the national flag of the bel-
5 ligerent under whose control they are placed.

6 Hospital-ships which, in the terms of Article IV, are detained
7 by the enemy, must haul down the national flag of the belligerent
8 to whom they belong.

9 The ships and boats above mentioned which wish to ensure by
10 night the freedom from interference to which they are entitled,
11 must, subject to the assent of the belligerent they are accompany-
12 ing, take the necessary measures to render their special painting
13 sufficiently plain.

14 ARTICLE VI.

15 The distinguishing signs referred to in Article V can only be
16 used, whether in time of peace or war, for protecting or indicating
17 the ships therein mentioned.

18 ARTICLE VII.

19 In the case of a fight on board a war-ship, the sick-wards shall
20 be respected and spared as far as possible.

21 The said sick-wards and the *matériel* belonging to them re-
22 main subject to the laws of war; they cannot, however, be used
23 for any purpose other than that for which they were originally
24 intended, so long as they are required for the sick and wounded.

25 The commander, however, into whose power they have fallen
26 may apply them to other purposes, if the military situation re-
27 quires it, after seeing that the sick and wounded on board are
28 properly provided for.

29 ARTICLE VIII.

30 Hospital-ships and sick-wards of vessels are no longer entitled
31 to protection if they are employed for the purpose of injuring
32 the enemy.

33 The fact of the staff of the said ships and sick-wards being
34 armed for maintaining order and for defending the sick and
35 wounded, and the presence of wireless telegraphy apparatus
36 on board, is not a sufficient reason for withdrawing protection.

1 ARTICLE IX.

2 Belligerents may appeal to the charity of the commanders of
3 neutral merchant-ships, yachts, or boats to take on board and
4 tend the sick and wounded.

5 Vessels responding to this appeal, and also vessels which have
6 of their own accord rescued sick, wounded, or shipwrecked
7 men, shall enjoy special protection and certain immunities.
8 In no case can they be captured for having such persons on board,
9 but, apart from special undertakings that have been made to
10 them, they remain liable to capture for any violations of neutral-
11 ity they may have committed.

12 ARTICLE X.

13 The religious, medical, and hospital staff of any captured ship
14 is inviolable, and its members cannot be made prisoners of war.
15 On leaving the ship they take away with them the objects and
16 surgical instruments which are their own private property.

17 This staff shall continue to discharge its duties while necessary,
18 and can afterwards leave, when the Commander-in-chief con-
19 siders it possible.

20 The belligerents must guarantee to the said staff, when it has
21 fallen into their hands, the same allowances and pay which are
22 given to the staff of corresponding rank in their own navy.

23 ARTICLE XI.

24 Sailors and soldiers on board, when sick or wounded, as well
25 as other persons officially attached to fleets or armies, whatever
26 their nationality, shall be respected and tended by the captors.

27 ARTICLE XII.

28 Any war-ship belonging to a belligerent may demand that sick,
29 wounded, or shipwrecked men on board military hospital-ships,
30 hospital-ships belonging to relief societies or to private individ-
31 uals, merchant-ships, yachts, or boats, whatever the nationality
32 of these vessels, should be handed over.

33 ARTICLE XIII.

34 If sick, wounded, or shipwrecked persons are taken on board a
35 neutral war-ship, every possible precaution must be taken that
36 they do not again take part in the operations of the war.

ARTICLE XIV.

The shipwrecked, wounded, or sick of one of the belligerents who fall into the power of the other belligerent are prisoners of war. The captor must decide, according to circumstances, whether to keep them, send them to a port of his own country, to a neutral port, or even to an enemy port. In this last case, prisoners thus repatriated cannot serve again while the war lasts.

ARTICLE XV.

The shipwrecked, sick, or wounded, who are landed at a neutral port with the consent of the local authorities, must, unless an arrangement is made to the contrary between the neutral State and the belligerent States, be guarded by the neutral State so as to prevent them again taking part in the operations of the war.

The expenses of tending them in hospital and interning them shall be borne by the State to which the shipwrecked, sick, or wounded persons belong.

ARTICLE XVI.

After every engagement, the two belligerents, so far as military interests permit, shall take steps to look for the shipwrecked, sick, and wounded, and to protect them, as well as the dead, against pillage and ill treatment.

They shall see that the burial, whether by land or sea, or cremation of the dead shall be preceded by a careful examination of the corpse.

ARTICLE XVII.

Each belligerent shall send, as early as possible, to the authorities of their country, navy, or army the military marks or documents of identity found on the dead and the description of the sick and wounded picked up by him.

The belligerents shall keep each other informed as to internments and transfers as well as to the admissions into hospital and deaths which have occurred among the sick and wounded in their hands. They shall collect all the objects of personal use, valuables, letters, &c., which are found in the captured ships, or which have been left by the sick or wounded who died in hospital, in order to have them forwarded to the persons concerned by the authorities of their own country.

ARTICLE XVIII.

2 The provisions of the present Convention do not apply except
3 between Contracting Powers, and then only if all the belligerents
4 are parties to the Convention.

ARTICLE XIX.

6 The Commanders-in-chief of the belligerent fleets must see that
7 the above Articles are properly carried out; they will have also
8 to see to cases not covered thereby, in accordance with the
9 instructions of their respective Governments and in conformity
10 with the general principles of the present Convention.

ARTICLE XX.

12 The Signatory Powers shall take the necessary measures for
13 bringing the provisions of the present Convention to the knowl-
14 edge of their naval forces, and especially of the members
15 entitled thereunder to immunity, and for making them known
16 to the public.

ARTICLE XXI.

18 The Signatory Powers likewise undertake to enact or to pro-
19 pose to their Legislatures, if their criminal laws are inadequate,
20 the measures necessary for checking in time of war individual
21 acts of pillage and ill-treatment in respect to the sick and
22 wounded in the fleet, as well as for punishing, as an unjusti-
23 fiable adoption of naval or military marks, the unauthorized
24 use of the distinctive marks mentioned in Article V by vessels
25 not protected by the present Convention.

26 They will communicate to each other, through the Nether-
27 land Government, the enactments for preventing such acts at
28 the latest within five years of the ratification of the present
29 Convention.

ARTICLE XXII.

31 In the case of operations of war between the land and sea
32 forces of belligerents, the provisions of the present Convention
33 do not apply except between the forces actually on board ship.

ARTICLE XXIII.

35 The present Convention shall be ratified as soon as possible.

36 The ratifications shall be deposited at The Hague.

37 The first deposit of ratifications shall be recorded in a *procès-*
38 *verbal* signed by the Representatives of the Powers taking part
39 therein and by the Netherland Minister for Foreign Affairs.

1 Subsequent deposits of ratifications shall be made by means
2 of a written notification addressed to the Netherland Govern-
3 ment and accompanied by the instrument of ratification.

4 A certified copy of the *procès-verbal* relative to the first
5 deposit of ratifications, of the notifications mentioned in the
6 preceding paragraph, as well as of the instruments of ratifica-
7 tion, shall be at once sent by the Netherland Government through
8 the diplomatic channel to the Powers invited to the Second
9 Peace Conference, as well as to the other Powers which have
10 adhered to the Convention. In the cases contemplated in the
11 preceding paragraph the said Government shall inform them at
12 the same time of the date on which it received the notification.

13 ARTICLE XXIV.

14 Non-Signatory Powers which have accepted the Geneva Con-
15 vention of the 6th July, 1906, may adhere to the present
16 Convention.

17 The Power which desires to adhere notifies its intention to
18 the Netherland Government in writing, forwarding to it the
19 act of adhesion, which shall be deposited in the archives of the
20 said Government.

21 The said Government shall at once transmit to all the other
22 Powers a duly certified copy of the notification as well as of
23 the act of adhesion, mentioning the date on which it received
24 the notification.

25 ARTICLE XXV.

26 The present Convention, duly ratified, shall replace as between
27 Contracting Powers, the Convention of the 29th July, 1899,
28 for the adaptation to maritime warfare of the principles of the
29 Geneva Convention.

30 The Convention of 1899 remains in force as between the
31 Powers which signed it but which do not also ratify the present
32 Convention.

33 ARTICLE XXVI.

34 The present Convention shall come into force, in the case
35 of the Powers which were a party to the first deposit of rati-
36 fications, sixty days after the date of the *procès-verbal* of this
37 deposit, and, in the case of the Powers which ratify subse-
38 quently or which adhere, sixty days after the notification of

1 their ratification or of their adhesion has been received by the
2 Netherland Government.

3 ARTICLE XXVII.

4 In the event of one of the Contracting Powers wishing to
5 denounce the present Convention, the denunciation shall be
6 notified in writing to the Netherland Government, which shall
7 at once communicate a duly certified copy of the notification
8 to all the other Powers, informing them at the same time of
9 the date on which it was received.

10 The denunciation shall only have effect in regard to the
11 notifying Power, and one year after the notification has reached
12 the Netherland Government.

13 ARTICLE XXVIII.

14 A register kept by the Netherland Ministry for Foreign Affairs
15 shall give the date of the deposit of ratifications made in virtue
16 of Article XXIII, paragraphs 3 and 4, as well as the date on
17 which the notifications of adhesion (Article XXIV, paragraph 2)
18 or of denunciation (Article XXVII, paragraph 1) have been
19 received.

20 Each Contracting Power is entitled to have access to this
21 register and to be supplied with duly certified extracts from it.

22 In faith whereof the Plenipotentiaries have appended their
23 signatures to the present Convention.

24 Done at The Hague, the 18th October, 1907, in a single copy,
25 which shall remain deposited in the archives of the Netherland
26 Government, and duly certified copies of which shall be sent,
27 through the diplomatic channel, to the Powers which have been
28 invited to the Second Peace Conference.

RIGHT OF CAPTURE IN NAVAL WAR.

A CONVENTION SIGNED BY THE DELEGATES OF THE UNITED STATES TO THE SECOND INTERNATIONAL PEACE CONFERENCE HELD AT THE HAGUE FROM JUNE 15 TO OCTOBER 18, 1907, RELATIVE TO CERTAIN RESTRICTIONS WITH REGARD TO THE EXERCISE OF THE RIGHT OF CAPTURE IN NAVAL WAR.

FEBRUARY 27, 1908.—Read; convention read the first time and referred to the Committee on Foreign Relations, and, together with the message and accompanying papers, ordered to be printed in confidence for the use of the Senate.

MARCH 10, 1908.—Ratified.

1 His Majesty the German Emperor, King of Prussia; the
2 President of the United States of America; the President of the
3 Argentine Republic; His Majesty the Emperor of Austria, King
4 of Bohemia, &c., and Apostolic King of Hungary; His Majesty
5 the King of the Belgians; the President of the Republic of
6 Bolivia; the President of the Republic of the United States of
7 Brazil; His Royal Highness the Prince of Bulgaria; the President
8 of the Republic of Chile; His Majesty the Emperor of China;
9 the President of the Republic of Colombia; the Provisional Gov-
10 ernor of the Republic of Cuba; His Majesty the King of Den-
11 mark; the President of the Dominican Republic; the President
12 of the Republic of Ecuador; His Majesty the King of Spain;
13 the President of the French Republic; His Majesty the King of
14 the United Kingdom of Great Britain and Ireland and of the
15 British Dominions beyond the Seas, Emperor of India; His
16 Majesty the King of the Hellenes; the President of the Republic
17 of Guatemala; the President of the Republic of Haiti; His
18 Majesty the King of Italy; His Majesty the Emperor of Japan;
19 His Royal Highness the Grand Duke of Luxemburg, Duke of
20 Nassau; the President of the United States of Mexico; His Royal
21 Highness the Prince of Montenegro; the President of the Re-
22 public of Nicaragua; His Majesty the King of Norway; the
23 President of the Republic of Panamá; the President of the
24 Republic of Paraguay; Her Majesty the Queen of the Nether-

1 lands; the President of the Republic of Peru; His Imperial
 2 Majesty the Shah of Persia; His Majesty the King of Portugal
 3 and of the Algarves, &c.; His Majesty the King of Roumania;
 4 His Majesty the Emperor of All the Russias; the President of
 5 the Republic of Salvador; His Majesty the King of Servia; His
 6 Majesty the King of Siam; His Majesty the King of Sweden;
 7 the Swiss Federal Council; His Majesty the Emperor of the
 8 Ottomans; the President of the Oriental Republic of Uruguay;
 9 the President of the United States of Venezuela:

10 Recognizing the necessity of more effectively ensuring than
 11 hitherto the equitable application of law to the international
 12 relations of maritime Powers in time of war;

13 Considering that, for this purpose, it is expedient, in giving
 14 up or, if necessary, in harmonizing for the common interest
 15 certain conflicting practices of long standing, to commence
 16 codifying in regulations of general application the guarantees
 17 due to peaceful commerce and legitimate business, as well as
 18 the conduct of hostilities by sea; that it is expedient to lay down
 19 in written mutual engagements the principles which have
 20 hitherto remained in the uncertain domain of controversy or
 21 have been left to the discretion of Governments;

22 That, from henceforth, a certain number of rules may be
 23 made, without affecting the common law now in force with
 24 regard to the matters which that law has left unsettled;

25 Have appointed the following as their Plenipotentiari s:

26 [For names of Plenipotentiaries, see Final Act, supra.]

27 Who, after having deposited their full powers, found in good
 28 and due form, have agreed upon the following provisions:—

29 CHAPTER I.—*Postal Correspondence.*

30 ARTICLE I.

31 The postal correspondence of neutrals or belligerents, what-
 32 ever its official or private character may be, found on the high
 33 seas on board a neutral or enemy ship, is inviolable. If the
 34 ship is detained, the correspondence is forwarded by the captor
 35 with the least possible delay.

36 The provisions of the preceding paragraph do not apply, in
 37 case of violation of blockade, to correspondence destined for or
 38 proceeding from a blockaded port.

ARTICLE II.

The inviolability of postal correspondence does not exempt a neutral mail-ship from the laws and customs of maritime war as to neutral merchant-ships in general. The ship, however, may not be searched except when absolutely necessary, and then only with as much consideration and expedition as possible.

CHAPTER II.—*The Exemption from Capture of certain Vessels.*

ARTICLE III.

Vessels used exclusively for fishing along the coast or small boats employed in local trade are exempt from capture, as well as their appliances, rigging, tackle, and cargo.

They cease to be exempt as soon as they take any part whatever in hostilities.

The Contracting Powers agree not to take advantage of the harmless character of the said vessels in order to use them for military purposes while preserving their peaceful appearance.

ARTICLE IV.

Vessels charged with religious, scientific, or philanthropic missions are likewise exempt from capture.

CHAPTER III.—*Regulations regarding the Crews of Enemy Merchant-ships Captured by a Belligerent.*

ARTICLE V.

When an enemy merchant-ship is captured by a belligerent, such of its crew as are nationals of a neutral State are not made prisoners of war.

The same rule applies in the case of the captain and officers likewise nationals of a neutral State, if they promise formally in writing not to serve on an enemy ship while the war lasts.

ARTICLE VI.

The captain, officers, and members of the crew, when nationals of the enemy State, are not made prisoners of war, on condition that they make a formal promise in writing, not to undertake, while hostilities last, any service connected with the operations of the war.

ARTICLE VII.

The names of the persons retaining their liberty under the conditions laid down in Article V, paragraph 2, and in Article

1 VI, are notified by the belligerent captor to the other bellig-
2 erent. The latter is forbidden knowingly to employ the said
3 persons.

4 ARTICLE VIII.

5 The provisions of the three preceding Articles do not apply
6 to ships taking part in the hostilities.

7 CHAPTER IV.—*Final Provisions.*

8 ARTICLE IX.

9 The provisions of the present Convention do not apply
10 except between Contracting Powers, and then only if all the
11 belligerents are parties to the Convention.

12 ARTICLE X.

13 The present Convention shall be ratified as soon as possible.

14 The ratifications shall be deposited at The Hague.

15 The first deposit of ratifications shall be recorded in a *procès-*
16 *verbal* signed by the Representatives of the Powers taking
17 part therein and by the Netherland Minister for Foreign Affairs.

18 Subsequent deposits of ratifications shall be made by means
19 of a written notification, addressed to the Netherland Gov-
20 ernment and accompanied by the instrument of ratification.

21 A duly certified copy of the *procès-verbal* relative to the first
22 deposit of ratifications, of the notifications mentioned in the pre-
23 ceding paragraph, as well as of the instruments of ratification,
24 shall be at once sent by the Netherland Government, through the
25 diplomatic channel, to the Powers invited to the Second Peace
26 Conference, as well as to the other Powers which have adhered
27 to the Convention. In the cases contemplated in the pre-
28 ceding paragraph, the said Government shall inform them
29 at the same time of the date on which it received the notification.

30 ARTICLE XI.

31 Non-Signatory Powers may adhere to the present Convention.

32 The Power which desires to adhere notifies its intention in
33 writing to the Netherland Government, forwarding to it the act
34 of adhesion, which shall be deposited in the archives of the said
35 Government.

1 This Government shall at once transmit to all the other Powers
2 a duly certified copy of the notification as well as of the act of
3 adhesion, mentioning the date on which it received the notifica-
4 tion.

5 ARTICLE XII.

6 The present Convention shall come into force in the case of
7 the Powers which were a party to the first deposit of ratifications,
8 sixty days after the *procès-verbal* of that deposit, and, in the
9 case of the Powers which ratify subsequently or which adhere,
10 sixty days after the notification of their ratification has been
11 received by the Netherland Government.

12 ARTICLE XIII.

13 In the event of one the Contracting Powers wishing to denounce
14 the present Convention, the denunciation shall be notified in
15 writing to the Netherland Government, which shall at once
16 communicate a duly certified copy of the notification to all the
17 other Powers informing them of the date on which it was
18 received.

19 The denunciation shall only have effect in regard to the noti-
20 fying Power, and one year after the notification has reached the
21 Netherland Government.

22 ARTICLE XIV.

23 A register kept by the Netherland Ministry for Foreign Affairs
24 shall give the date of the deposit of ratifications made in virtue
25 of Article X, paragraphs 3 and 4, as well as the date on which
26 the notifications of adhesion (Article XI, paragraph 2) or of
27 denunciation (Article XIII, paragraph 1) have been received.

28 Each Contracting Power is entitled to have access to this
29 register and to be supplied with duly certified extracts from it.

30 In faith whereof the Plenipotentiaries have appended their
31 signatures to the present Convention.

32 Done at The Hague, the 18th October, 1907, in a single copy,
33 which shall remain deposited in the archives of the Netherland
34 Government, and duly certified copies of which shall be sent,
35 through the diplomatic channel, to the Powers invited to the
36 Second Peace Conference.

[Executive R, Sixtieth Congress, first session—Confidential.]

NEUTRAL POWERS IN NAVAL WAR.

[Not signed by the delegates of the United States.]

**A CONVENTION ADOPTED BY THE SECOND INTERNATIONAL PEACE
CONFERENCE HELD AT THE HAGUE FROM JUNE 15 TO OCTOBER
18, 1907, CONCERNING THE RIGHTS AND DUTIES OF NEUTRAL
POWERS IN NAVAL WAR.**

FEBRUARY 27, 1908.—Referred to the Committee on Foreign Relations and ordered to be printed in confidence for the use of the Senate.

APRIL 17, 1908.—Adhered to excepting Article 23.

1 His Majesty the German Emperor, King of Prussia; the
2 President of the United States of America; the President of
3 the Argentine Republic; His Majesty the Emperor of Austria,
4 King of Bohemia, &c., and Apostolic King of Hungary; His
5 Majesty the King of the Belgians; the President of the Republic
6 of Bolivia; the President of the Republic of the United States
7 of Brazil; His Royal Highness the Prince of Bulgaria; the
8 President of the Republic of Chile; His Majesty the Emperor
9 of China; the President of the Republic of Colombia; the
10 Provisional Governor of the Republic of Cuba; His Majesty
11 the King of Denmark; the President of the Dominican Republic;
12 the President of the Republic of Ecuador; His Majesty the
13 King of Spain; the President of the French Republic; His
14 Majesty the King of the United Kingdom of Great Britain
15 and Ireland and of the British Dominions beyond the Seas,
16 Emperor of India; His Majesty the King of the Hellenes; the
17 President of the Republic of Guatemala; the President of the
18 Republic of Haïti; His Majesty the King of Italy; His Majesty
19 the Emperor of Japan; His Royal Highness the Grand Duke
20 of Luxemburg, Duke of Nassau; the President of the United
21 States of Mexico; His Royal Highness the Prince of Monte-
22 negro; the President of the Republic of Nicaragua; His Majesty

1 the King of Norway; the President of the Republic of Panamá;
2 the President of the Republic of Paraguay; Her Majesty the
3 Queen of the Netherlands; the President of the Republic of
4 Peru; His Imperial Majesty the Shah of Persia; His Majesty
5 the King of Portugal and of the Algarves, &c.; His Majesty
6 the King of Roumania; His Majesty the Emperor of All the
7 Russias; the President of the Republic of Salvador; His Majesty
8 the King of Servia; His Majesty the King of Siam; His Majesty
9 the King of Sweden; the Swiss Federal Council; His Majesty
10 the Emperor of the Ottomans; the President of the Oriental
11 Republic of Uruguay; the President of the United States of
12 Venezuela:

13 With a view to harmonizing the divergent views which, in
14 the event of naval war, are still held on the relations between
15 neutral Powers and belligerent Powers, and to anticipating
16 the difficulties to which such divergence of views might give
17 rise;

18 Seeing that, even if it is not possible at present to concert
19 measures applicable to all circumstances which may in practice
20 occur, it is nevertheless undeniably advantageous to frame,
21 as far as possible, rules of general application to meet the case
22 where war has unfortunately broken out;

23 Seeing that, in cases not covered by the present Convention,
24 it is expedient to take into consideration the general principles
25 of the law of nations;

26 Seeing that it is desirable that the Powers should issue detailed
27 enactments to regulate the results of the attitude of neutrality
28 when adopted by them;

29 Seeing that it is, for neutral Powers, an admitted duty to
30 apply these rules impartially to the several belligerents;

31 Seeing that, in this category of ideas, these rules should not,
32 in principle, be altered, in the course of the war, by a neutral
33 Power, except in a case where experience has shown the necessity
34 for such change for the protection of the rights of that Power;

35 Have agreed to observe the following common rules, which
36 cannot however modify provisions laid down in existing general
37 Treaties, and have appointed as their Plenipotentiaries, namely:

38 [For names of Plenipotentiaries, see Final Act, supra.]

1 Who, after having deposited their full powers, found in good
2 and due form, have agreed upon the following provisions:—

3 ARTICLE I.

4 Belligerents are bound to respect the sovereign rights of neu-
5 tral Powers and to abstain, in neutral territory or neutral waters,
6 from any act which would, if knowingly permitted by any
7 Power, constitute a violation of neutrality.

8 ARTICLE II.

9 Any act of hostility, including capture and the exercise of the
10 right of search, committed by belligerent war-ships in the terri-
11 torial waters of a neutral Power, constitutes a violation of neu-
12 trality and is strictly forbidden.

13 ARTICLE III.

14 When a ship has been captured in the territorial waters of a
15 neutral Power, this Power must employ, if the prize is still
16 within its jurisdiction, the means at its disposal to release the
17 prize with its officers and crew, and to intern the prize crew.

18 If the prize is not in the jurisdiction of the neutral Power,
19 the captor Government, on the demand of that Power, must
20 liberate the prize with its officers and crew.

21 ARTICLE IV.

22 A Prize Court cannot be set up by a belligerent on neutral
23 territory or on a vessel in neutral waters.

24 ARTICLE V.

25 Belligerents are forbidden to use neutral ports and waters as
26 a base of naval operations against their adversaries, and in par-
27 ticular to erect wireless telegraphy stations or any apparatus
28 for the purpose of communicating with the belligerent forces on
29 land or sea.

30 ARTICLE VI.

31 The supply, in any manner, directly or indirectly, by a neutral
32 Power to a belligerent Power, of war-ships, ammunition, or war
33 material of any kind whatever, is forbidden.

34 ARTICLE VII.

35 A neutral Power is not bound to prevent the export or transit,
36 for the use of either belligerent, of arms, ammunitions, or, in
37 general, of anything which could be of use to an army or fleet.

ARTICLE VIII.

A neutral Government is bound to employ the means at its disposal to prevent the fitting out or arming of any vessel within its jurisdiction which it has reason to believe is intended to cruise, or engage in hostile operations, against a Power with which that Government is at peace. It is also bound to display the same vigilance to prevent the departure from its jurisdiction of any vessel intended to cruise, or engage in hostile operations, which had been adapted entirely or partly within the said jurisdiction for use in war.

ARTICLE IX.

A neutral Power must apply impartially to the two belligerents the conditions, restrictions, or prohibitions made by it in regard to the admission into its ports, roadsteads, or territorial waters, of belligerent war-ships or of their prizes.

Nevertheless, a neutral Power may forbid a belligerent vessel which has failed to conform to the orders and regulations made by it, or which has violated neutrality, to enter its ports or roadsteads.

ARTICLE X.

The neutrality of a Power is not affected by the mere passage through its territorial waters of war-ships or prizes belonging to belligerents.

ARTICLE XI.

A neutral Power may allow belligerent war-ships to employ its licensed pilots.

ARTICLE XII.

In the absence of special provisions to the contrary in the legislation of a neutral Power, belligerent war-ships are not permitted to remain in the ports, roadsteads, or territorial waters of the said Power for more than twenty-four hours, except in the cases covered by the present Convention.

ARTICLE XIII.

If a Power which has been informed of the outbreak of hostilities learns that a belligerent war-ship is in one of its ports or roadsteads, or in its territorial waters, it must notify the said ship to depart within twenty-four hours or within the time prescribed by local regulations.

1 ARTICLE XIV.

2 A belligerent war-ship may not prolong its stay in a neutral
3 port beyond the permissible time except on account of damage
4 or stress of weather. It must depart as soon as the cause of the
5 delay is at an end.

6 The regulations as to the question of the length of time which
7 these vessels may remain in neutral ports, roadsteads, or waters,
8 do not apply to war-ships devoted exclusively to religious, scien-
9 tific, or philanthropic purposes.

10 ARTICLE XV.

11 In the absence of special provisions to the contrary in the
12 legislation of a neutral Power, the maximum number of war-
13 ships belonging to a belligerent which may be in one of the ports
14 or roadsteads of that Power simultaneously shall be three.

15 ARTICLE XVI.

16 When war-ships belonging to both belligerents are present
17 simultaneously in a neutral port or roadstead, a period of not
18 less than twenty-four hours must elapse between the departure
19 of the ship belonging to one belligerent and the departure of the
20 ship belonging to the other.

21 The order of departure is determined by the order of arrival,
22 unless the ship which arrived first is so circumstanced that an
23 extension of its stay is permissible.

24 A belligerent war-ship may not leave a neutral port or road-
25 stead until twenty-four hours after the departure of a merchant-
26 ship flying the flag of its adversary.

27 ARTICLE XVII.

28 In neutral ports and roadsteads belligerent war-ships may
29 only carry out such repairs as are absolutely necessary to render
30 them seaworthy, and may not add in any manner whatsoever
31 to their fighting force. The local authorities of the neutral
32 Power shall decide what repairs are necessary, and these must
33 be carried out with the least possible delay.

34 ARTICLE XVIII.

35 Belligerent war-ships may not make use of neutral ports,
36 roadsteads, on territorial waters for replenishing or increasing
37 their supplies of war material or their armament, or for com-
38 pleting their crews.

ARTICLE XIX.

Belligerent war-ships may only revictual in neutral ports or roadsteads to bring up their supplies to the peace standard.

Similarly these vessels may only ship sufficient fuel to enable them to reach the nearest port in their own country. They may, on the other hand, fill up their bunkers built to carry fuel, when in neutral countries which have adopted this method of determining the amount of fuel to be supplied.

If, in accordance with the law of the neutral Power, the ships are not supplied with coal within twenty-four hours of their arrival, the permissible duration of their stay is extended by twenty-four hours.

ARTICLE XX.

Belligerent war-ships which have shipped fuel in a port belonging to a neutral Power may not within the succeeding three months replenish their supply in a port of the same Power.

ARTICLE XXI.

A prize may only be brought into a neutral port on account of unseaworthiness, stress of weather, or want of fuel or provisions.

It must leave as soon as the circumstances which justified its entry are at an end. If it does not, the neutral Power must order it to leave at once; should it fail to obey, the neutral Power must employ the means at its disposal to release it with its officers and crew and to intern the prize crew.

ARTICLE XXII.

A neutral Power must, similarly, release a prize brought into one of its ports under circumstances other than those referred to in Article XXI.

ARTICLE XXIII.

A neutral Power may allow prizes to enter its ports and roadsteads, whether under convoy or not, when they are brought there to be sequestered pending the decision of a Prize Court. It may have the prize taken to another of its ports.

If the prize is convoyed by a war-ship, the prize crew may go on board the convoying ship.

If the prize is not under convoy, the prize crew are left at liberty.

1 ARTICLE XXIV.

2 If, notwithstanding the notification of the neutral Power,
3 a belligerent ship of war does not leave a port where it is not
4 entitled to remain, the neutral Power is entitled to take such
5 measures as it considers necessary to render the ship incapable
6 of taking the sea during the war, and the commanding officer of
7 the ship must facilitate the execution of such measures.

8 When a belligerent ship is detained by a neutral Power, the
9 officers and crew are likewise detained.

10 The officers and crew thus detained may be left in the ship or
11 kept either on another vessel or on land, and may be subjected
12 to the measures of restriction which it may appear necessary
13 to impose upon them. A sufficient number of men for looking
14 after the vessel must, however, be always left on board.

15 The officers may be left at liberty on giving their word not to
16 quit the neutral territory without permission.

17 ARTICLE XXV.

18 A neutral Power is bound to exercise such surveillance as the
19 means at its disposal allow to prevent any violation of the pro-
20 visions of the above Articles occurring in its ports or roadsteads
21 or in its waters.

22 ARTICLE XXVI.

23 The exercise by a neutral Power of the rights laid down in the
24 present Convention can under no circumstances be considered
25 as an unfriendly act by one or other belligerent who has accepted
26 the Article relating thereto.

27 ARTICLE XXVII.

28 The Contracting Powers shall communicate to each other in
29 due course all Laws, Proclamations, and other enactments regu-
30 lating in their respective countries the status of belligerent war-
31 ships in their ports and waters, by means of a communication
32 addressed to the Government of the Netherlands, and forwarded
33 immediately by that Government to the other Contracting
34 Powers.

35 ARTICLE XXVIII.

36 The provisions of the present Convention do not apply except
37 to the Contracting Powers, and then only if all the belligerents
38 are parties to the Convention.

ARTICLE XXIX.

The present Convention shall be ratified as soon as possible.

The ratifications shall be deposited at The Hague.

The first deposit of ratifications shall be recorded in a *procès-verbal* signed by the Representatives of the Powers which take part therein and by the Netherland Minister for Foreign Affairs.

The subsequent deposits of ratifications shall be made by means of a written notification addressed to the Netherland Government and accompanied by the instrument of ratification.

A duly certified copy of the *procès-verbal* relative to the first deposit of ratifications, of the ratifications mentioned in the preceding paragraph, as well as of the instruments of ratification, shall be at once sent by the Netherland Government, through the diplomatic channel, to the Powers invited to the Second Peace Conference, as well as to the other Powers which have adhered to the Convention. In the cases contemplated in the preceding paragraph, the said Government shall inform them at the same time of the date on which it received the notification.

ARTICLE XXX.

Non-Signatory Powers may adhere to the present Convention.

The Power which desires to adhere notifies in writing its intention to the Netherland Government, forwarding to it the act of adhesion, which shall be deposited in the archives of the said Government.

That Government shall at once transmit to all the other Powers a duly certified copy of the notification as well as of the act of adhesion, mentioning the date on which it received the notification.

ARTICLE XXXI.

The present Convention shall come into force in the case of the Powers which were a party to the first deposit of the ratifications, sixty days after the date of the *procès-verbal* of that deposit, and, in the case of the Powers who ratify subsequently or who adhere, sixty days after the notification of their ratification or of their decision has been received by the Netherland Government.

1 ARTICLE XXXII.

2 In the event of one of the Contracting Powers wishing to
3 denounce the present Convention, the denunciation shall be
4 notified in writing to the Netherland Government, who shall at
5 once communicate a duly certified copy of the notification to
6 all the other Powers, informing them of the date on which it
7 was received.

8 The denunciation shall only have effect in regard to the
9 notifying Power, and one year after the notification has been
10 made to the Netherland Government.

11 ARTICLE XXXIII.

12 A register kept by the Netherland Ministry for Foreign
13 Affairs shall give the date of the deposit of ratifications made
14 by Article XXIX, paragraphs 3 and 4, as well as the date on
15 which the notifications of adhesion (Article XXX, paragraph 2)
16 or of denunciation (Article XXXII, paragraph 1) have been
17 received.

18 Each Contracting Power is entitled to have access to this
19 register and to be supplied with duly certified extracts.

20 In faith whereof the Plenipotentiaries have appended their
21 signatures to the present Convention.

22 Done at The Hague, the 18th October, 1907, in a single copy.
23 which shall remain deposited in the archives of the Netherland
24 Government, and duly certified copies of which shall be sent,
25 through the diplomatic channel, to the Powers which have
26 been invited to the Second Peace Conference.

**RESOLUTION OF RATIFICATION OF A CONVENTION CONCERNING
THE RIGHTS AND DUTIES OF NEUTRAL POWERS IN NAVAL
WAR, SIGNED AT THE HAGUE, 1907.**

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the adherence of the United States to a convention adopted by the Second International Peace Conference held at The Hague from June 15 to October 18, 1907, concerning the rights and duties of neutral powers in naval war, reserving and excluding, however, Article XXIII thereof, which is in the following words:

A neutral power may allow prizes to enter its ports and roadsteads, whether under convoy or not, when they are brought there to be sequestered pending the decision of a prize court. It may have the prize taken to another of its ports.

If the prize is convoyed by a war ship, the prize crew may go on board the convoying ship.

If the prize is not under convoy, the prize crew are left at liberty.

Resolved, further, That the United States adheres to this convention with the understanding that the last clause of Article III implies the duty of a neutral power to make the demand therein mentioned for the return of a ship captured within the neutral jurisdiction and no longer within that jurisdiction.

DISCHARGING PROJECTILES FROM BALLOONS.

A DECLARATION SIGNED BY THE DELEGATES OF THE UNITED STATES TO THE SECOND INTERNATIONAL PEACE CONFERENCE HELD AT THE HAGUE FROM JUNE 15 TO OCTOBER 18, 1907, PROHIBITING THE DISCHARGE OF PROJECTILES AND EXPLOSIVES FROM BALLOONS.

FEBRUARY 27, 1908.—Read; declaration read the first time and referred to the Committee on Foreign Relations, and, together with the message and accompanying papers, ordered to be printed in confidence for the use of the Senate.

MARCH 10, 1908.—Ratified.

1 The Undersigned, Plenipotentiaries of the Powers invited to
2 the Second International Peace Conference at The Hague, duly
3 authorized to that effect by their Governments, inspired by the
4 sentiments which found expression in the Declaration of St.
5 Petersburg of the 29th November (11th December), 1868, and
6 being desirous of renewing the declaration of The Hague of the
7 29th July, 1899, which has now expired,

8 Declare:

9 The Contracting Powers agree to prohibit, for a period extend-
10 ing to the close of the Third Peace Conference, the discharge of
11 projectiles and explosives from balloons or by other new methods
12 of a similar nature.

13 The present Declaration is only binding on the Contracting
14 Powers in case of war between two or more of them.

15 It shall cease to be binding from the time when, in a war
16 between the Contracting Powers, one of the belligerents is joined
17 by a non-Contracting Power.

18 The present Declaration shall be ratified as soon as possible.

19 The ratifications shall be deposited at The Hague.

20 A *procès-verbal* shall be drawn up recording the receipt of the
21 ratifications, of which a duly certified copy shall be sent, through
22 the diplomatic channel, to all the Contracting Powers.

1 Non-Signatory Powers may adhere to the present Declaration.
2 To do so, they must make known their adhesion to the Con-
3 tracting Powers by means of a written notification, addressed
4 to the Netherland Government, and communicated by it to all
5 the other Contracting Powers.

6 In the event of one of the High Contracting Parties denounc-
7 ing the present Declaration, such denunciation shall not take
8 effect until a year after the notification made in writing to the
9 Netherland Government, and forthwith communicated by it to
10 all the other Contracting Powers.

11 This denunciation shall only have affect in regard to the
12 notifying Power.

13 In faith whereof the Plenipotentiaries have appended their
14 signatures to the present Declaration.

15 Done at The Hague, the 18th October, 1907, in a single copy,
16 which shall remain deposited in the archives of the Netherland
17 Government, and duly certified copies of which shall be sent,
18 through the diplomatic channel, to the Contracting Powers.

STATUS OF ENEMY MERCHANT SHIPS.

[Not signed by the delegates of the United States—Not ratified by the Senate.]

A CONVENTION ADOPTED BY THE SECOND INTERNATIONAL PEACE CONFERENCE, HELD AT THE HAGUE FROM JUNE 15 TO OCTOBER 18, 1907, RELATIVE TO THE STATUS OF ENEMY MERCHANT SHIPS AT THE OUTBREAK OF HOSTILITIES.

FEBRUARY 27, 1908.—Referred to the Committee on Foreign Relations and ordered to be printed in confidence for the use of the Senate.

[Not reported.]

1 His Majesty the German Emperor, King of Prussia; the
2 President of the United States of America; the President of
3 the Argentine Republic; His Majesty the Emperor of Austria,
4 King of Bohemia, &c., and Apostolic King of Hungary; His
5 Majesty the King of the Belgians; the President of the Repub-
6 lic of Bolivia; the President of the Republic of the United States
7 of Brazil; His Royal Highness the Prince of Bulgaria; the Pres-
8 ident of the Republic of Chile; His Majesty the Emperor of
9 China; the President of the Republic of Colombia; the Provi-
10 sional Governor of the Republic of Cuba; His Majesty the
11 King of Denmark; the President of the Dominican Republic;
12 the President of the Republic of Ecuador; His Majesty the
13 King of Spain; the President of the French Republic; His
14 Majesty the King of the United Kingdom of Great Britain and
15 Ireland and of the British Dominions beyond the Seas, Em-
16 peror of India; His Majesty the King of the Hellenes; the
17 President of the Republic of Guatemala; the President of the
18 Republic of Haïti; His Majesty the King of Italy; His Majesty
19 the Emperor of Japan; His Royal Highness the Grand Duke
20 of Luxemburg, Duke of Nassau; the President of the United
21 States of Mexico; His Royal Highness the Prince of Monte-
22 negro; the President of the Republic of Nicaragua; His Majesty
23 the King of Norway; the President of the Republic of Panamá;
24 the President of the Republic of Paraguay; Her Majesty the

1 Queen of the Netherlands; the President of the Republic of Peru;
2 His Imperial Majesty the Shah of Persia; His Majesty the
3 King of Portugal and of the Algarves, &c.; His Majesty the
4 King of Roumania; His Majesty the Emperor of All the Russias;
5 the President of the Republic of Salvador; His Majesty the
6 King of Servia; His Majesty the King of Siam; His Majesty
7 the King of Sweden; the Swiss Federal Council; His Majesty
8 the Emperor of the Ottomans; the President of the Oriental
9 Republic of Uruguay; the President of the United States of
10 Venezuela:

11 Anxious to ensure the security of international commerce
12 against the surprises of war, and wishing, in accordance with
13 modern practice, to protect as far as possible operations under-
14 taken in good faith and in process of being carried out before
15 the outbreak of hostilities, have resolved to conclude a Conven-
16 tion to this effect, and have appointed the following persons
17 as their Plenipotentiaries:

18 [For names of Plenipotentiaries, see Final Act, *supra*.]

19 Who, after having deposited their full powers, found in good
20 and due form, have agreed upon the following provisions:—

21 ARTICLE I.

22 When a merchant-ship belonging to one of the belligerent
23 Powers is at the commencement of hostilities in an enemy port,
24 it is desirable that it should be allowed to depart freely, either
25 immediately, or after a reasonable number of days of grace,
26 and to proceed, after being furnished with a pass, direct to its
27 port of destination or any other port indicated.

28 The same rule should apply in the case of a ship which has
29 left its last port of departure before the commencement of the
30 war and entered a port belonging to the enemy while still igno-
31 rant that hostilities had broken out.

32 ARTICLE II.

33 A merchant-ship unable, owing to circumstances of *force*
34 *majeure*, to leave the enemy port within the period contemplated
35 in the above Article, or which was not allowed to leave, can-
36 not be confiscated.

37 The belligerent may only detain it, without payment of com-
38 pensation, but subject to the obligation of restoring it after
39 the war, or requisition it on payment of compensation.

1 ARTICLE III.

2 Enemy merchant-ships which left their last port of departure
3 before the commencement of the war, and are encountered on
4 the high seas while still ignorant of the outbreak of hostilities
5 cannot be confiscated. They are only liable to detention on
6 the understanding that they shall be restored after the war
7 without compensation, or to be requisitioned, or even destroyed,
8 on payment of compensation, but in such case provision must
9 be made for the safety of the persons on board as well as the
10 security of the ship's papers.

11 After touching at a port in their own country or at a neutral
12 port, these ships are subject to the laws and customs of mari-
13 time war.

14 ARTICLE IV.

15 Enemy cargo on board the vessels referred to in Articles I and
16 II is likewise liable to be detained and restored after the termi-
17 nation of the war without payment of compensation, or to be
18 requisitioned on payment of compensation, with or without the
19 ship.

20 The same rule applies in the case of cargo on board the vessels
21 referred to in Article III.

22 ARTICLE V.

23 The present Convention does not affect merchant-ships whose
24 build shows that they are intended for conversion into war-ships.

25 ARTICLE VI.

26 The provisions of the present Convention do not apply except
27 between Contracting Powers, and then only if all the belligerents
28 are parties to the Convention.

29 ARTICLE VII.

30 The present Convention shall be ratified as soon as possible.

31 The ratifications shall be deposited at The Hague.

32 The first deposit of ratifications shall be recorded in a *procès-*
33 *verbal* signed by the Representatives of the Powers which take
34 part therein and by the Netherland Minister for Foreign Affairs.

35 The subsequent deposits of ratifications shall be made by means
36 of a written notification addressed to the Netherland Govern-
37 ment and accompanied by the instrument of ratification.

1 A duly certified copy of the *procès-verbal* relative to the first
2 deposit of ratifications, of the notifications mentioned in the pre-
3 ceding paragraph, as well as of the instruments of ratification,
4 shall be at once sent by the Netherland Government, through the
5 diplomatic channel, to the Powers invited to the Second Peace
6 Conference, as well as to the other Powers which have adhered
7 to the Convention. In the cases contemplated in the preceding
8 paragraph, the said Government shall at the same time inform
9 them of the date on which it received the notification.

10 ARTICLE VIII.

11 Non-Signatory Powers may adhere to the present Convention.

12 The Power which desires to adhere notifies in writing its inten-
13 tion to the Netherland Government, forwarding to it the act of
14 adhesion, which shall be deposited in the archives of the said
15 Government.

16 The said Government shall at once transmit to all the other
17 Powers a duly certified copy of the notification as well as of the
18 act of adhesion, stating the date on which it received the noti-
19 fication.

20 ARTICLE IX.

21 The present Convention shall come into force, in the case of the
22 Powers which were a party to the first deposit of ratifications,
23 sixty days after the date of the *procès-verbal* of that deposit, and,
24 in the case of the Powers which ratify subsequently or which
25 adhere, sixty days after the notification of their ratification or of
26 their adhesion has been received by the Netherland Government.

27 ARTICLE X.

28 In the event of one of the Contracting Powers wishing to
29 denounce the present Convention, the denunciation shall be noti-
30 fied in writing to the Netherland Government, which shall at
31 once communicate a certified copy of the notification to all the
32 other Powers, informing them of the date on which it was
33 received.

34 The denunciation shall only have effect in regard to the notify-
35 ing Power, and one year after the notification has reached the
36 Netherland Government.

1 ARTICLE XI.

2 A register kept by the Ministry for Foreign Affairs shall give
3 the date of the deposit of ratifications made in virtue of Article
4 VII, paragraphs 3 and 4, as well as the date on which the notifi-
5 cations of adhesion (Article VIII, paragraph 2) or of denunciation
6 (Article X, paragraph 1) have been received.

7 Each Contracting Power is entitled to have access to this
8 register and to be supplied with certified extracts from it.

9 In faith whereof the Plenipotentiaries have appended to the
10 present Convention their signatures.

11 Done at The Hague, the 18th October, 1907, in a single copy,
12 which shall remain deposited in the archives of the Netherland
13 Government, and duly certified copies of which shall be sent,
14 through the diplomatic channel, to the Powers which have been
15 invited to the Second Peace Conference.

CONVERSION OF MERCHANT SHIPS INTO WAR SHIPS.

[Not signed by the delegates of the United States—Not ratified by the Senate.]

A CONVENTION ADOPTED BY THE SECOND INTERNATIONAL PEACE CONFERENCE HELD AT THE HAGUE FROM JUNE 15 TO OCTOBER 18, 1907, RELATIVE TO THE CONVERSION OF MERCHANT SHIPS INTO WAR SHIPS.

FEBRUARY 27, 1908.—Referred to the Committee on Foreign Relations and ordered to be printed in confidence for the use of the Senate.

[Not reported.]

1 His Majesty the German Emperor, King of Prussia; the Presi-
2 dent of the United States of America; the President of the Argen-
3 tine Republic; His Majesty the Emperor of Austria, King of
4 Bohemia, &c., and Apostolic King of Hungary; His Majesty the
5 King of the Belgians; the President of the Republic of Bolivia;
6 the President of the Republic of the United States of Brazil; His
7 His Royal Highness the Prince of Bulgaria; the President of the
8 Republic of Chile; His Majesty the Emperor of China; the Presi-
9 dent of the Republic of Colombia; the Provisional Governor of
10 the Republic of Cuba; His Majesty the King of Denmark; the
11 President of the Dominican Republic; the President of the
12 Republic of Ecuador; His Majesty the King of Spain; the
13 President of the French Republic; His Majesty the King of the
14 United Kingdom of Great Britain and Ireland and of the British
15 Dominions beyond the Seas, Emperor of India; His Majesty
16 the King of the Hellenes; the President of the Republic of
17 Guatemala; the President of the Republic of Haiti; His Majesty
18 the King of Italy; His Majesty the Emperor of Japan; His Royal
19 Highness the Grand Duke of Luxemburg, Duke of Nassau; the
20 President of the United States of Mexico; His Royal Highness
21 the Prince of Montenegro; the President of the Republic of Nica-
22 ragua; His Majesty the King of Norway; the President of the
23 Republic of Panamá; the President of the Republic of Paraguay;
24 Her Majesty the Queen of the Netherlands; the President of the

1 Republic of Peru; His Imperial Majesty the Shah of Persia; His
2 Majesty the King of Portugal and of the Algarves, &c.; His
3 Majesty the King of Roumania; His Majesty the Emperor
4 of All the Russias; the President of the Republic of Salvador;
5 His Majesty the King of Servia; His Majesty the King of Siam;
6 His Majesty the King of Sweden; the Swiss Federal Council;
7 His Majesty the Emperor of the Ottomans; the President of the
8 Oriental Republic of Uruguay; the President of the United
9 States of Venezuela:

10 Whereas it is desirable, in view of the incorporation in time of
11 war of merchant-ships in the fighting fleet, to define the condi-
12 tions subject to which this operation may be effected;

13 Whereas, however, the Contracting Powers have been unable
14 to come to an agreement on the question whether the conversion
15 of a merchant-ship into a war-ship may take place upon the high
16 seas, it is understood that the question of the place where such
17 conversion is effected remains outside the scope of this Agree-
18 ment and is in no way affected by the following rules;

19 Being desirous of concluding a Convention to this effect, have
20 appointed the following as their Plenipotentiaries:

21 [For names of Plenipotentiaries, see Final Act, supra.]

22 Who, after having deposited their full powers, found in good
23 and due form, have agreed upon the following provisions:—

24 ARTICLE I.

25 A merchant-ship converted into a war-ship cannot have the
26 rights and duties accruing to such vessels unless it is placed
27 under the direct authority, immediate control, and responsibility
28 of the Power whose flag it flies.

29 ARTICLE II.

30 Merchant-ships converted into war-ships must bear the
31 external marks which distinguish the war-ships of their nation-
32 ality.

33 ARTICLE III.

34 The commander must be in the service of the State and duly
35 commissioned by the competent authorities. His name must
36 figure on the list of the officers of the fighting fleet.

37 ARTICLE IV.

38 The crew must be subject to military discipline.

1 ARTICLE V.

2 Every merchant-ship converted into a war-ship must observe
3 in its operations the laws and customs of wars.

4 ARTICLE VI.

5 A belligerent who converts a merchant-ship into a war-ship
6 must, as soon as possible, announce such conversion in the list
7 of war-ships.

8 ARTICLE VII.

9 The provisions of the present Convention do not apply except
10 between Contracting Powers, and then only if all the belligerents
11 are parties to the Convention.

12 ARTICLE VIII.

13 The present Convention shall be ratified as soon as possible.

14 The ratifications shall be deposited at The Hague.

15 The first deposit of ratifications shall be recorded in a *procès-*
16 *verbal* signed by the Representatives of the Powers who take
17 part therein and by the Netherland Minister for Foreign Affairs.

18 The subsequent deposits of ratifications shall be made by
19 means of a written notification, addressed to the Netherland
20 Government and accompanied by the instrument of ratification.

21 A duly certified copy of the *procès-verbal* relative to the first
22 deposit of ratifications, of the notifications mentioned in the
23 preceding paragraph, as well as of the instruments of ratification,
24 shall be at once sent by the Netherland Government, through
25 the diplomatic channel, to the Powers invited to the Second
26 Peace Conference, as well as to the other Powers which have
27 adhered to the Convention. In the cases contemplated in the
28 preceding paragraph the said Government shall at the same time
29 inform them of the date on which it received the notification.

30 ARTICLE IX.

31 Non-Signatory Powers may adhere to the present Convention.

32 The Power which desires to adhere notifies its intention in
33 writing to the Netherland Government, forwarding to it the act
34 of adhesion, which shall be deposited in the archives of the said
35 Government.

36 That Government shall at once transmit to all the other
37 Powers a duly certified copy of the notification as well as of the
38 act of adhesion, stating the date on which it received the
39 notification.

1 ARTICLE X.

2 The present Convention shall come into force, in the case of
3 the Powers which were a party to the first deposit of ratifica-
4 tions, sixty days after the date of the *procès-verbal* of this deposit,
5 and, in the case of the Powers which ratify subsequently or which
6 adhere, sixty days after the notification of their ratification or
7 of their adhesion has been received by the Netherland Gov-
8 ernment.

9 ARTICLE XI.

10 In the event of one of the Contracting Powers wishing to
11 denounce the present Convention, the denunciation shall be
12 notified in writing to the Netherland Government, which shall
13 at once communicate a duly certified copy of the notification to
14 all the other Powers, informing them of the date on which it was
15 received.

16 The denunciation shall only have effect in regard to the
17 notifying Power, and one year after the notification has reached
18 the Netherland Government.

19 ARTICLE XII.

20 A register kept by the Netherland Ministry for Foreign Affairs
21 shall give the date of the deposit of ratifications made in virtue
22 of Article VIII, paragraphs 3 and 4, as well as the date on which
23 the notifications of adhesion (Article IX, paragraph 2) or of
24 denunciation (Article XI, paragraph 1) have been received.

25 Each Contracting Power is entitled to have access to this
26 register and to be supplied with duly certified extracts from it.

27 In faith whereof the Plenipotentiaries have appended their
28 signatures to the present Convention.

29 Done at The Hague, the 18th October, 1907, in a single copy,
30 which shall remain deposited in the archives of the Netherland
31 Government, and duly certified copies of which shall be sent,
32 through the diplomatic channel, to the Powers which have been
33 invited to the Second Peace Conference.

INTERNATIONAL PRIZE COURT.

[Not ratified by the Senate.]

A CONVENTION SIGNED BY THE DELEGATES OF THE UNITED STATES TO THE SECOND INTERNATIONAL PEACE CONFERENCE HELD AT THE HAGUE FROM JUNE 15 TO OCTOBER 18, 1907, RELATIVE TO THE CREATION OF AN INTERNATIONAL PRIZE COURT.

FEBRUARY 27, 1908.—Read; convention read the first time and referred to the Committee on Foreign Relations, and, together with the message and accompanying papers, ordered to be printed in confidence for the use of the Senate.

[Not reported.]

1 HIS Majesty the German Emperor, King of Prussia; the Presi-
2 dent of the United States of America; the President of the Argen-
3 tine Republic; His Majesty the Emperor of Austria, King of
4 Bohemia, &c., and Apostolic King of Hungary; His Majesty the
5 King of the Belgians; the President of the Republic of Bolivia;
6 the President of the Republic of the United States of Brazil; His
7 Royal Highness the Prince of Bulgaria; the President of the
8 Republic of Chile; His Majesty the Emperor of China; the Presi-
9 dent of the Republic of Colombia; the Provisional Governor of
10 the Republic of Cuba; His Majesty the King of Denmark; the
11 President of the Dominican Republic; the President of the Repub-
12 lic of Ecuador; His Majesty the King of Spain; the President of
13 the French Republic; His Majesty the King of the United King-
14 dom of Great Britain and Ireland and of the British Dominions
15 beyond the Seas, Emperor of India; His Majesty the King of the
16 Hellenes; the President of the Republic of Guatemala; the Presi-
17 dent of the Republic of Haïti; His Majesty the King of Italy; His
18 Majesty the Emperor of Japan; His Royal Highness the Grand
19 Duke of Luxemburg, Duke of Nassau; the President of the
20 United States of Mexico; His Royal Highness the Prince of Mon-
21 tenegro; the President of the Republic of Nicaragua; His Maj-
22 esty the King of Norway; the President of the Republic of
23 Panamá; the President of the Republic of Paraguay; Her
24 Majesty the Queen of the Netherlands; the President of the
25 Republic of Peru; His Imperial Majesty the Shah of Persia; His

1 Majesty the King of Portugal and of the Algarves, &c.; His
2 Majesty the King of Roumania; His Majesty the Emperor of All
3 the Russias; the President of the Republic of Salvador; His
4 Majesty the King of Servia; His Majesty the King of Siam; His
5 Majesty the King of Sweden; the Swiss Federal Council; His
6 Majesty the Emperor of the Ottomans; the President of the
7 Oriental Republic of Uruguay; the President of the United
8 States of Venezuela:

9 Animated by the desire to settle in an equitable manner the
10 differences which sometimes arise in the course of a naval war in
11 connection with the decisions of National Prize Courts;

12 Considering that, if these Courts are to continue to exercise
13 their functions in the manner determined by national legislation
14 it is desirable that in certain cases an appeal should be provided,
15 under conditions conciliating, as far as possible, the public and
16 private interests involved in matters of prize;

17 Whereas, moreover, the institution of an International Court,
18 whose jurisdiction and procedure would be carefully defined, has
19 seemed to be the best method of attaining this object;

20 Convinced, finally, that in this manner the hardships conse-
21 quent on naval war would be mitigated; that, in particular, good
22 relations will be more easily maintained between belligerents and
23 neutrals and peace better assured;

24 Desirous of concluding a Convention to this effect, have
25 appointed the following as their Plenipotentiaries:

26 [For names of Plenipotentiaries see Final Act, *supra*.]

27 Who, after depositing their full powers, found in good and due
28 form, have agreed upon the following provisions:—

29 *PART I.—General Provisions.*

30 *ARTICLE I.*

31 The validity of the capture of a merchant-ship or its cargo is
32 decided before a Prize Court in accordance with the present
33 Convention when neutral or enemy property is involved.

34 *ARTICLE II.*

35 Jurisdiction in matters of prize is exercised in the first instance
36 by the Prize Courts of the belligerent captor.

37 The judgments of these Courts are pronounced in public or are
38 officially notified to parties concerned who are neutrals or
39 enemies.

ARTICLE III.

The judgments of National Prize Courts may be brought before the International Prize Court—

1. When the judgment of the National Prize Courts affects the property of a neutral Power or individual;

2. When the judgment affects enemy property and relates to—

(a.) Cargo on board a neutral ship;

(b.) An enemy ship captured in the territorial waters of a neutral Power, when that Power has not made the capture the subject of a diplomatic claim;

(c.) A claim based upon the allegation that the seizure has been effected in violation, either of the provisions of a Convention in force between the belligerent Powers, or of an enactment issued by the belligerent captor.

The appeal against the judgment of the National Court can be based on the ground that the judgment was wrong either in fact or in law.

ARTICLE IV.

An appeal may be brought—

1. By a neutral Power, if the judgment of the National Tribunals injuriously affects its property or the property of its nationals (Article III (1)), or if the capture of an enemy vessel is alleged to have taken place in the territorial waters of that Power (Article III (2) (b));

2. By a neutral individual, if the judgment of the National Court injuriously affects his property (Article III (1)), subject, however, to the reservation that the Power to which he belongs may forbid him to bring the case before the Court, or may itself undertake the proceedings in his place;

3. By an individual subject or citizen of an enemy Power, if the judgment of the National Court injuriously affects his property in the cases referred to in Article III (2), except that mentioned in paragraph (b).

ARTICLE V.

An appeal may also be brought on the same conditions as in the preceding Article, by persons belonging either to neutral States or to the enemy, deriving their rights from and entitled to represent an individual qualified to appeal, and who have

1 taken part in the proceedings before the National Court. Per-
2 sons so entitled may appeal separately to the extent of their
3 interest.

4 The same rule applies in the case of persons belonging either
5 to neutral States or to the enemy who derive their rights from
6 and are entitled to represent a neutral Power whose property
7 was the subject of the decision.

8 ARTICLE VI.

9 When, in accordance with the above Article III, the Inter-
10 national Court has jurisdiction, the National Courts cannot deal
11 with a case in more than two instances. The municipal law
12 of the belligerent captor shall decide whether the case may be
13 brought before the International Court after judgment has
14 been given in first instance or only after an appeal.

15 If the National Courts fail to give final judgment within two
16 years from the date of capture, the case may be carried direct
17 to the International Court.

18 ARTICLE VII.

19 If a question of law to be decided is covered by a Treaty in
20 force between the belligerent captor and a Power which is itself
21 or whose subject or citizen is a party to the proceedings, the
22 Court is governed by the provisions of the said Treaty.

23 In the absence of such provisions, the Court shall apply the
24 rules of international law. If no generally recognized rule
25 exists, the Court shall give judgment in accordance with the
26 general principles of justice and equity.

27 The above provisions apply equally to questions relating to
28 the order and mode of proof.

29 If, in accordance with Article III (2) (c), the ground of appeal
30 is the violation of an enactment issued by the belligerent cap-
31 tor, the Court will enforce the enactment.

32 The Court may disregard failure to comply with the pro-
33 cedure laid down in the enactments of the belligerent captor,
34 when it is of opinion that the consequences of complying there-
35 with are unjust and inequitable.

36 ARTICLE VIII.

37 If the Court pronounces the capture of the vessel or cargo to
38 be valid, they shall be disposed of in accordance with the laws
39 of the belligerent captor.

1 If it pronounces the capture to be null, the Court shall order
2 restitution of the vessel or cargo, and shall fix, if there is
3 occasion, the amount of the damages. If the vessel or cargo
4 have been sold or destroyed, the Court shall determine the
5 compensation to be given to the owner on this account.

6 If the national Court pronounced the capture to be null, the
7 Court can only be asked to decide as to the damages.

8 ARTICLE IX.

9 The Contracting Powers undertake to submit in good faith
10 to the decisions of the International Prize Court and to carry
11 them out with the least possible delay.

12 PART II.—*Constitution of the International Prize Court.*

13 ARTICLE X.

14 The International Prize Court is composed of Judges and
15 Deputy Judges, who will be appointed by the Contracting
16 Powers, and must all be jurists of known proficiency in questions
17 of international maritime law, and of the highest moral repu-
18 tation.

19 The appointment of these Judges and Deputy Judges shall
20 be made within six months after the ratification of the present
21 Convention.

22 ARTICLE XI.

23 The Judges and Deputy Judges are appointed for a period of
24 six years, reckoned from the date on which the notification of
25 their appointment is received by the Administrative Council
26 established by the Convention for the Pacific Settlement of
27 International Disputes of the 29th July, 1899. Their appoint-
28 ments can be renewed.

29 Should one of the Judges or Deputy Judges die or resign, the
30 same procedure is followed for filling the vacancy as was followed
31 for appointing him. In this case, the appointment is made for
32 a fresh period of six years.

33 ARTICLE XII.

34 The Judges of the International Prize Court are all equal in
35 rank and have precedence according to the date on which the
36 notification of their appointment was received (Article XI,
37 paragraph 1), and if they sit by rota (Article XV, paragraph
38 2), according to the date on which they entered upon their

1 duties. When the date is the same the senior in age takes
2 precedence.

3 The Deputy Judges when acting are assimilated to the Judges.
4 They rank, however, after them.

5 ARTICLE XIII.

6 The Judges enjoy diplomatic privileges and immunities in
7 the performance of their duties and when outside their own
8 country.

9 Before taking their seat, the Judges must swear, or make a
10 solemn promise before the Administrative Council, to discharge
11 their duties impartially and conscientiously.

12 ARTICLE XIV.

13 The Court is composed of fifteen Judges; nine Judges consti-
14 tute a quorum.

15 A Judge who is absent or prevented from sitting is replaced
16 by the Deputy Judge.

17 ARTICLE XV.

18 The Judges appointed by the following Contracting Powers:
19 Germany, the United States of America, Austria-Hungary,
20 France, Great Britain, Italy, Japan, and Russia, are always
21 summoned to sit.

22 The Judges and Deputy Judges appointed by the other Con-
23 tracting Powers sit by rota as shown in the Table annexed to
24 the present Convention; their duties may be performed succes-
25 sively by the same person. The same Judge may be appointed
26 by several of the said Powers.

27 ARTICLE XVI.

28 If a belligerent Power has, according to the rota, no Judge
29 sitting in the Court, it may ask that the Judge appointed by it
30 should take part in the settlement of all cases arising from the
31 war. Lots shall then be drawn as to which of the Judges enti-
32 tled to sit according to the rota shall withdraw. This arrange-
33 ment does not affect the Judge appointed by the other belligerent.

34 ARTICLE XVII.

35 No Judge can sit who has been a party, in any way whatever,
36 to the sentence pronounced by the National Courts, or has taken
37 part in the case as counsel or advocate for one of the parties.

1 No Judge or Deputy Judge can, during his tenure of office,
2 appear as agent or advocate before the International Prize Court,
3 nor act for one of the parties in any capacity whatever.

4 ARTICLE XVIII.

5 The belligerent captor is entitled to appoint a naval officer of
6 high rank to sit as Assessor, but with no voice in the decision.
7 A neutral Power, which is a party to the proceedings or whose
8 subject or citizen is a party, has the same right of appointment;
9 if as the result of this last provision more than one Power is
10 concerned, they must agree among themselves, if necessary by
11 lot, on the officer to be appointed.

12 ARTICLE XIX.

13 The Court elects its President and Vice-President by an abso-
14 lute majority of the votes cast. After two ballots, the election
15 is made by a bare majority, and, in case the votes are equal,
16 by lot.

17 ARTICLE XX.

18 The Judges on the International Prize Court are entitled to
19 travelling allowances in accordance with the regulations in force
20 in their own country, and in addition receive, while the Court is
21 sitting or while they are carrying out duties conferred upon them
22 by the Court, a sum of 100 Netherland florins per diem.

23 These payments are included in the general expenses of the
24 Court dealt with in Article XLVII, and are paid through the
25 International Bureau established by the Convention of the 29th
26 July, 1899.

27 The Judges may not receive from their own Government or
28 from that of any other Power any remuneration in their capacity
29 of members of the Court.

30 ARTICLE XXI.

31 The seat of the International Prize Court is at The Hague and
32 it cannot, except in the case of *force majeure*, be transferred
33 elsewhere without the consent of the belligerents.

34 ARTICLE XXII.

35 The Administrative Council fulfils, with regard to the Inter-
36 national Prize Court, the same functions as to the Permanent
37 Court of Arbitration, but only Representatives of Contracting
38 Powers will be members of it.

1 ARTICLE XXIII.

2 The International Bureau acts as registry to the International
3 Prize Court and must place its offices and staff at the disposal
4 of the Court. It has charge of the archives and carries out the
5 administrative work.

6 The Secretary-General of the International Bureau acts as
7 Registrar.

8 The necessary secretaries to assist the Registrar, translators
9 and shorthand writers are appointed and sworn in by the Court.

10 ARTICLE XXIV.

11 The Court determines which language it will itself use and
12 what languages may be used before it, but the official language
13 of the National Courts which have had cognizance of the case
14 may always be used before the Court.

15 ARTICLE XXV.

16 Powers which are concerned in a case may appoint special
17 agents to act as intermediaries between themselves and the
18 Court. They may also engage counsel or advocates to defend
19 their rights and interests.

20 ARTICLE XXVI.

21 A private person concerned in a case will be represented
22 before the Court by an attorney, who must be either an advo-
23 cate qualified to plead before a Court of Appeal or a High Court
24 of one of the Contracting States, or a lawyer practising before
25 a similar Court, or lastly, a professor of law at one of the higher
26 teaching centres of those countries.

27 ARTICLE XXVII.

28 For all notices to be served, in particular on the parties, wit-
29 nesses, or experts, the Court may apply direct to the Govern-
30 ment of the State on whose territory the service is to be carried
31 out. The same rule applies in the case of steps being taken to
32 procure evidence.

33 The requests for this purpose are to be executed so far as the
34 means at the disposal of the Power applied to under its munici-
35 pal law allow. They cannot be rejected unless the Power in
36 question considers them calculated to impair its sovereign rights
37 or its safety. If the request is complied with, the fees charged
38 must only comprise the expenses actually incurred.

1 The Court is equally entitled to act through the Power on
2 whose territory it sits.

3 Notices to be given to parties in the place where the Court
4 sits may be served through the International Bureau.

5 **PART III.—*Procedure in the International Prize Court.***

6 **ARTICLE XXVIII.**

7 An appeal to the International Prize Court is entered by
8 means of a written declaration made in the National Court
9 which has already dealt with the case or addressed to the Inter-
10 national Bureau; in the latter case the appeal can be entered
11 by telegram.

12 The period within which the appeal must be entered is fixed
13 at 120 days, counting from the day the decision is delivered or
14 notified (Article II, paragraph 2).

15 **ARTICLE XXIX.**

16 If the notice of appeal is entered in the National Court, this
17 Court, without considering the question whether the appeal was
18 entered in due time, will transmit within seven days the record
19 of the case to the International Bureau.

20 If the notice of the appeal is sent to the International Bureau,
21 the Bureau will immediately inform the National Court, when
22 possible by telegraph. The latter will transmit the record as
23 provided in the preceding paragraph.

24 When the appeal is brought by a neutral individual the Inter-
25 national Bureau at once informs by telegraph the individual's
26 Government, in order to enable it to enforce the rights it enjoys
27 under Article IV, paragraph 2.

28 **ARTICLE XXX.**

29 In the case provided for in Article VI, paragraph 2, the notice
30 of appeal can be addressed to the International Bureau only.
31 It must be entered within thirty days of the expiration of the
32 period of two years.

33 **ARTICLE XXXI.**

34 If the appellant does not enter his appeal within the period
35 laid down in Articles XXVIII or XXX, it shall be rejected
36 without discussion.

37 Provided that he can show that he was prevented from so
38 doing by *force majeure*, and that the appeal was entered within

1 sixty days after the circumstances which prevented him enter-
2 ing it before had ceased to operate, the Court can, after hearing
3 the respondent, grant relief from the effect of the above provision.

4 ARTICLE XXXII.

5 If the appeal is entered in time, a certified copy of the notice
6 of appeal is forthwith officially transmitted by the Court to the
7 respondent.

8 ARTICLE XXXIII.

9 If, in addition to the parties who are before the Court, there
10 are other parties concerned who are entitled to appeal, or if,
11 in the case referred to in Article XXIX, paragraph 3, the Gov-
12 ernment who has received notice of an appeal has not announced
13 its decision, the Court will await before dealing with the case
14 the expiration of the period laid down in Articles XXVIII
15 or XXX.

16 ARTICLE XXXIV.

17 The procedure before the International Court includes two
18 distinct parts: the written pleadings and oral discussions.

19 The written pleadings consist of the deposit and exchange
20 of cases, counter-cases, and, if necessary, of replies, of which
21 the order is fixed by the Court, as also the periods within which
22 they must be delivered. The parties annex thereto all papers
23 and documents of which they intend to make use.

24 A certified copy of every document produced by one party
25 must be communicated to the other party through the medium
26 of the Court.

27 ARTICLE XXXV.

28 After the close of the pleadings, a public sitting is held on a
29 day fixed by the Court.

30 At this sitting the parties state their view of the case both
31 as to the law and as to the facts.

32 The Court may, at any stage of the proceedings, suspend
33 speeches of counsel, either at the request of one of the parties,
34 or on their own initiative, in order that supplementary evi-
35 dence may be obtained.

36 ARTICLE XXXVI.

37 The International Court may order the supplementary evi-
38 dence to be taken either in the manner provided by Article
39 XXVII, or before itself, or one or more of the members of the

1 Court, provided that this can be done without resort to com-
2 pulsion or the use of threats.

3 If steps are to be taken for the purpose of obtaining evidence
4 by members of the Court outside the territory where it is sitting,
5 the consent of the foreign Government must be obtained.

6 ARTICLE XXXVII.

7 The parties are summoned to take part in all stages of the
8 proceedings and receive certified copies of the Minutes.

9 ARTICLE XXXVIII.

10 The discussions are under the control of the President or
11 Vice-President, or, in case they are absent or cannot act, of
12 the senior Judge present.

13 The Judge appointed by a belligerent party cannot preside

14 ARTICLE XXXIX.

15 The discussions take place in public, subject to the right of
16 a Government who is a party to the case to demand that they
17 be held in private.

18 Minutes are taken of these discussions and signed by the
19 President and Registrar, and these Minutes alone have an
20 authentic character.

21 ARTICLE XL.

22 If a party does not appear, despite the fact that he has been
23 duly cited, or if a party fails to comply with some step within
24 the period fixed by the Court, the case proceeds without that
25 party, and the Court gives judgment in accordance with the
26 material at its disposal.

27 ARTICLE XLI.

28 The Court officially notifies to the parties Decrees or decisions
29 made in their absence.

30 ARTICLE XLII.

31 The Court takes into consideration in arriving at its decision
32 all the facts, evidence, and oral statements.

33 ARTICLE XLIII.

34 The Court considers its decision in private and the proceedings
35 are secret.

36 All questions are decided by a majority of the Judges present.
37 If the number of Judges is even and equally divided, the vote

1 of the junior Judge in the order of precedence laid down in
2 Article XII, paragraph 1, is not counted.

3 ARTICLE XLIV.

4 The judgment of the Court must give the reasons on which
5 it is based. It contains the names of the Judges taking part in
6 it, and also of the Assessors, if any; it is signed by the President
7 and Registrar.

8 ARTICLE XLV.

9 The sentence is pronounced in public sitting, the parties con-
10 cerned being present or duly summoned to attend; the sentence
11 is officially communicated to the parties.

12 When this communication has been made, the Court transmits
13 to the National Prize Court the record of the case, together with
14 copies of the various decisions arrived at and of the Minutes of
15 the proceedings.

16 ARTICLE XLVI.

17 Each party pays its own costs.

18 The party against whom the Court decides bears, in addition,
19 the costs of the trial, and also pays 1 per cent. of the value of
20 the subject-matter of the case as a contribution to the general
21 expenses of the International Court. The amount of these pay-
22 ments is fixed in the judgment of the Court.

23 If the appeal is brought by an individual, he will furnish the
24 International Bureau with security to an amount fixed by the
25 Court, for the purpose of guaranteeing eventual fulfilment of
26 the two obligations mentioned in the preceding paragraph. The
27 Court is entitled to postpone the opening of the proceedings
28 until the security has been furnished.

29 ARTICLE XLVII.

30 The general expenses of the International Prize Court are
31 borne by the Contracting Powers in proportion to their share
32 in the composition of the Court as laid down in Article XV and
33 in the annexed Table. The appointment of Deputy Judges does
34 not involve any contribution.

35 The Administrative Council applies to the Powers for the
36 funds requisite for the working of the Court.

ARTICLE XLVIII.

When the Court is not sitting, the duties conferred upon it by Article XXXII, Article XXXIV, paragraphs 2 and 3, Article XXXV, paragraph 1, and Article XLVI, paragraph 3, are discharged by a delegation of three Judges appointed by the Court. This delegation decides by a majority of votes.

ARTICLE XLIX.

The Court itself draws up its own rules of procedure, which must be communicated to the Contracting Powers.

It will meet to elaborate these rules within a year of the ratification of the present Convention.

ARTICLE L.

The Court may propose modifications in the provisions of the present Convention concerning procedure. These proposals are communicated, through the medium of the Netherland Government, to the Contracting Powers, which will consider together as to the measures to be taken.

PART IV.—*Final Provisions.*

ARTICLE LI.

The present Convention does not apply as of right except when the belligerent Powers are all parties to the Convention.

It is further fully understood that an appeal to the International Prize Court can only be brought by a Contracting Power or the subject or citizen of a Contracting Power.

In the cases mentioned in Article V, the appeal is only admitted when both the owner and the person entitled to represent him are equally Contracting Powers or the subjects or citizens of Contracting Powers.

ARTICLE LII.

The present Convention shall be ratified and the ratifications shall be deposited at The Hague as soon as all the Powers mentioned in Article XV and in the Table annexed are in a position to do so.

The deposit of the ratifications shall take place, in any case, on the 30th June, 1909, if the Powers which are ready to ratify furnish nine Judges and nine Deputy Judges to the Court, qualified to validly constitute a Court. If not, the deposit shall be postponed until this condition is fulfilled.

1 A Minute of the deposit of ratifications shall be drawn up,
2 of which a certified copy shall be forwarded, through the dip-
3 lomatic channel, to each of the Powers referred to in the first
4 paragraph.

5 ARTICLE LIII.

6 The Powers referred to in Article XV and in the Table
7 annexed are entitled to sign the present Convention up to the
8 deposit of the ratifications contemplated in paragraph 2 of the
9 preceding Article.

10 After this deposit, they can at any time adhere to it, purely
11 and simply. A Power wishing to adhere, notifies its intention
12 in writing to the Netherland Government transmitting to it, at
13 the same time, the act of adhesion, which shall be deposited
14 in the archives of the said Government. The latter shall send,
15 through the diplomatic channel, a certified copy of the notifi-
16 cation and of the act of adhesion to all the Powers referred to
17 in the preceding paragraph, informing them of the date on
18 which it has received the notification.

19 ARTICLE LIV.

20 The present Convention shall come into force six months
21 from the deposit of the ratifications contemplated in Article
22 LII, paragraphs 1 and 2.

23 The adhesions shall take effect sixty days after notification
24 of such adhesion has been received by the Netherland Govern-
25 ment, or as soon as possible on the expiration of the period
26 contemplated in the preceding paragraph.

27 The International Court shall, however, have jurisdiction to
28 deal with prize cases decided by the National Courts at any
29 time after the deposit of the ratifications or of the receipt of
30 the notification of the adhesions. In such cases, the period
31 fixed in Article XXVIII, paragraph 2, shall only be reckoned
32 from the date when the Convention comes into force as regards
33 a Power which has ratified or adhered.

34 ARTICLE LV.

35 The present Convention shall remain in force for twelve years
36 from the time it comes into force, as determined by Article
37 LIV, paragraph 1, even in the case of Powers which adhere
38 subsequently.

1 It shall be renewed tacitly from six years to six years unless
2 denounced.

3 Denunciation must be notified in writing, at least one year
4 before the expiration of each of the periods mentioned in the
5 two preceding paragraphs, to the Netherland Government,
6 which will inform all the other Contracting Powers.

7 Denunciation shall only take effect in regard to the Power
8 which has notified it. The Convention shall remain in force in
9 the case of the other Contracting Powers, provided that their
10 participation in the appointment of Judges is sufficient to allow
11 of the composition of the Court with nine Judges and nine
12 Deputy Judges.

13 ARTICLE LVI.

14 In case the present Convention is not in operation as regards
15 all the Powers referred to in Article XV and the annexed Table,
16 the Administrative Council shall draw up a list on the lines of
17 that Article and Table of the Judges and Deputy Judges through
18 whom the Contracting Powers will share in the composition
19 of the Court. The times allotted by the said Table to Judges
20 who are summoned to sit in rota will be redistributed between
21 the different years of the six-year period in such a way that, as
22 far as possible, the number of the Judges of the Court in each
23 year shall be the same. If the number of Deputy Judges is
24 greater than that of the Judges, the number of the latter can
25 be completed by Deputy Judges chosen by lot among those
26 Powers which do not nominate a Judge.

27 The list drawn up in this way by the Administrative Coun-
28 cil shall be notified to the Contracting Powers. It shall be
29 revised when the number of these Powers is modified as the
30 result of adhesions or denunciations.

31 The change resulting from an adhesion is not made until the
32 1st January after the date on which the adhesion takes effect,
33 unless the adhering Power is a belligerent Power, in which case
34 it can ask to be at once represented in the Court, the provision
35 of Article XVI being, moreover, applicable if necessary.

36 When the total number of Judges is less than eleven, seven
37 Judges form a quorum.

1 ARTICLE LVII.

2 Two years before the expiration of each period referred to
3 in paragraphs 1 and 2 of Article LV any Contracting Power
4 can demand a modification of the provisions of Article XV
5 and of the annexed Table, relative to its participation in the
6 composition of the Court. The demand shall be addressed to
7 the Administrative Council, which will examine it and submit
8 to all the Powers proposals as to the measures to be adopted.
9 The Powers shall inform the Administrative Council of their
10 decision with the least possible delay. The result shall be at
11 once, and at least one year and thirty days before the expira-
12 tion of the said period of two years, communicated to the Power
13 which made the demand.

14 When necessary, the modifications adopted by the Powers
15 shall come into force from the commencement of the fresh
16 period.

17 In faith whereof the Plenipotentiaries have appended their
18 signatures to the present Convention.

19 Done at The Hague, the 18th October, 1907, in a single copy,
20 which shall remain deposited in the archives of the Netherland
21 Government, and duly certified copies of which shall be sent,
22 through the diplomatic channel, to the Powers designated in
23 Article XV and in the Table annexed.

ANNEX TO ARTICLE XV.

Distribution of Judges and Deputy Judges by Countries for each Year of the period of Six Years.

Judges.		Deputy Judges		Judges.		Deputy Judges.	
<i>First Year.</i>				<i>Second Year.</i>			
1	Argentina.....	Paraguay.		Argentina.....	Panamá.		
2	Colombia.....	Bolivia.		Spain.....	Spain.		
3	Spain.....	Spain.		Greece.....	Roumania.		
4	Greece.....	Roumania.		Norway.....	Sweden.		
5	Norway.....	Sweden.		Netherlands.....	Belgium.		
6	Netherlands.....	Belgium.		Turkey.....	Luxemburg.		
7	Turkey.....	Persia.		Uruguay.....	Costa Rica.		
<i>Third Year.</i>				<i>Fourth Year.</i>			
1	Brazil.....	Santo Domingo.		Brazil.....	Guatemala.		
2	China.....	Turkey.		China.....	Turkey.		
3	Spain.....	Portugal.		Spain.....	Portugal.		
4	Netherlands.....	Switzerland.		Peru.....	Honduras.		
5	Roumania.....	Greece.		Roumania.....	Greece.		
6	Sweden.....	Denmark.		Sweden.....	Denmark.		
7	Venezuela.....	Haiti.		Switzerland.....	Netherlands.		
<i>Fifth Year.</i>				<i>Sixth Year.</i>			
1	Belgium.....	Netherlands.		Belgium.....	Netherlands.		
2	Bulgaria.....	Montenegro.		Chile.....	Salvador.		
3	Chile.....	Nicaragua.		Denmark.....	Norway.		
4	Denmark.....	Norway.		Mexico.....	Ecuador.		
5	Mexico.....	Cuba.		Portugal.....	Spain.		
6	Persia.....	China.		Servia.....	Bulgaria.		
7	Portugal.....	Spain.		Siam.....	China.		

FINAL ACT OF THE SECOND INTERNATIONAL PEACE CONFERENCE.

THE FINAL ACT OF THE SECOND INTERNATIONAL PEACE CONFERENCE, AND THE ANNEX ATTACHED THERETO, ADOPTED AT THE HAGUE DURING THE SESSIONS OF THE CONFERENCE.

FEBRUARY 27, 1908.—Referred to the Committee on Foreign Relations and ordered to be printed in confidence for the use of the Senate.

1 The Second International Peace Conference, proposed in the
2 first instance by the President of the United States of America,
3 having been convoked, on the invitation of His Majesty the
4 Emperor of All the Russias, by Her Majesty the Queen of the
5 Netherlands, assembled on the 15th June, 1907, at The Hague,
6 in the Hall of the Knights, for the purpose of giving a fresh
7 development to the humanitarian principles which served as a
8 basis for the work of the First Conference of 1899.

9 The following Powers took part in the Conference, and
10 appointed the Delegates named below:—

11 Germany:

12 His Excellency Baron Marschall de Bieberstein, Minister
13 of State, Imperial Ambassador at Constantinople, First
14 Delegate Plenipotentiary;

15 M. Kriege, Imperial Envoy on Extraordinary Mission at
16 the present Conference, Privy Councillor of Legation and
17 Legal Adviser to the Ministry for Foreign Affairs, Member
18 of the Permanent Court of Arbitration, Second Delegate
19 Plenipotentiary;

20 Rear-Admiral Siegel, Naval Attaché to the Imperial
21 Embassy at Paris, Naval Delegate;

22 Major-General de Gündell, Quarter-Master General of the
23 General Staff of the Royal Prussian Army, Military Dele-
24 gate;

1 M. Zorn, Professor to the Faculty of Law at the University
2 of Bonn, Judicial Privy Councillor, Member of the Prus-
3 sian Upper Chamber, and Crown Syndic, Scientific
4 Delegate;

5 M. Göppert, Councillor of Legation and Councillor attached
6 to the Department for Foreign Affairs, Assistant Dele-
7 gate;

8 M. Retzmann, Lieutenant-Commander on the Naval General
9 Staff, Assistant Naval Delegate.

10 The United States of America:

11 His Excellency Mr. Joseph H. Choate, ex-Ambassador at
12 London, Ambassador Extraordinary, Delegate Plenipo-
13 tentiary;

14 His Excellency Mr. Horace Porter, ex-Ambassador at Paris,
15 Ambassador Extraordinary, Delegate Plenipotentiary;

16 His Excellency Mr. Uriah M. Rose, Ambassador Extraor-
17 dinary, Delegate Plenipotentiary;

18 His Excellency Mr. David Jayne Hill, ex-Assistant Secretary
19 of State, Envoy Extraordinary and Minister Plenipoten-
20 tiary at The Hague, Delegate Plenipotentiary;

21 Rear-Admiral Charles S. Sperry, ex-President of the Naval
22 War College, Minister Plenipotentiary, Delegate Pleni-
23 potentiary;

24 Brigadier-General George B. Davis, Judge Advocate-General
25 of the United States' Army, Minister Plenipotentiary,
26 Delegate Plenipotentiary;

27 Mr. William I. Buchanan, ex-Minister at Buenos Ayres,
28 ex-Minister at Panamá, Minister Plenipotentiary, Dele-
29 gate Plenipotentiary;

30 Mr. James Brown Scott, Solicitor for the Department of
31 State, Technical Delegate;

32 Mr. Charles Henry Butler, Reporter of the Supreme Court,
33 Technical Delegate.

34 The Argentine Republic:

35 His Excellency M. Roque Saenz Peña, ex-Minister for
36 Foreign Affairs, Envoy Extraordinary and Minister
37 Plenipotentiary at Rome, Member of the Permanent
38 Court of Arbitration, Delegate Plenipotentiary;

- 1 His Excellency M. Luis M. Drago, ex-Minister for Foreign
2 Affairs, Deputy, Member of the Permanent Court of
3 Arbitration, Delegate Plenipotentiary;
4 His Excellency M. Carlos Rodríguez Larreta, ex-Minister
5 for Foreign Affairs, Member of the Permanent Court of
6 Arbitration, Delegate Plenipotentiary;
7 General Francisco Reynolds, Military Attaché at Berlin,
8 Technical Delegate;
9 Captain Juan A. Martin, ex-Minister of Marine, Naval
10 Attaché at London, Technical Delegate.
- 11 **Austria-Hungary:**
12 His Excellency M. Gaëtan Mérey de Kapos-Mére, Privy
13 Councillor of His Imperial and Royal Apostolic Majesty,
14 Ambassador Extraordinary and Plenipotentiary, First
15 Delegate Plenipotentiary;
16 His Excellency Baron Charles de Macchio, Envoy Extraor-
17 dinary and Minister Plenipotentiary at Athens, Second
18 Delegate Plenipotentiary;
19 M. Henri Lammasch, Professor at the University of Vienna,
20 Aulic Councillor, Member of the Austrian Upper Chamber
21 of the Reichsrath, Member of the Permanent Court of
22 Arbitration, Scientific Delegate;
23 M. Antoine Haus, Rear-Admiral, Naval Delegate;
24 Baron Wladimir Giesl de Gieslingen, Major-General, Mili-
25 tary Plenipotentiary at the Imperial and Royal Embassy
26 at Constantinople and at the Imperial and Royal Lega-
27 tion at Athens, Military Delegate;
28 The Chevalier Othon de Weil, Aulic and Ministerial Coun-
29 cillor at the Ministry of the Imperial and Royal House-
30 hold and of Foreign Affairs, Delegate;
31 M. Jules Szilassy de Szilas et Pilis, Councillor of Legation,
32 Delegate;
33 M. Emile Konek de Norwall, Naval Lieutenant of the First
34 Class, Delegate Attached.
- 35 **Belgium:**
36 His Excellency M. A. Beernaert, Minister of State, Member
37 of the Chamber of Representatives, Member of the Insti-
38 tute of France and of the Royal Academies of Belgium

1 and Roumania, Honorary Member of the Institute of
2 International Law, Member of the Permanent Court of
3 Arbitration, Delegate Plenipotentiary;

4 His Excellency M. J. van den Heuvel, Minister of State,
5 ex-Minister of Justice, Delegate Plenipotentiary;

6 His Excellency Baron Guillaume, Envoy Extraordinary
7 and Minister Plenipotentiary at The Hague, Member of
8 the Royal Academy of Roumania, Delegate Plenipoten-
9 tiary.

10 **Bolivia:**

11 His Excellency M. Claudio Pinilla, Minister for Foreign
12 Affairs, Member of the Permanent Court of Arbitration,
13 Delegate Plenipotentiary;

14 His Excellency M. Fernando E. Guachalla, Minister Pleni-
15 potentiary at London, Delegate Plenipotentiary.

16 **Brazil:**

17 His Excellency M. Ruy Barbosa, Ambassador Extraordinary
18 and Plenipotentiary, Vice-President of the Senate, Mem-
19 ber of the Permanent Court of Arbitration, Delegate
20 Plenipotentiary;

21 His Excellency M. Eduardo F. S. dos Santos Lisbôa, Envoy
22 Extraordinary and Minister Plenipotentiary at The
23 Hague, Delegate Plenipotentiary;

24 Colonel Roberto Trompowsky Leitão de Almeida, Military
25 Attaché at The Hague, Technical Delegate;

26 Commander Tancredo Burlamaqui de Moura, Technical
27 Delegate.

28 **Bulgaria:**

29 Major-General on the Staff Vrbán Vinaroff, General *à la*
30 *suite*, First Delegate Plenipotentiary;

31 M. Ivan Karandjouloff, Procureur-Général of the Court of
32 Cassation, Second Delegate Plenipotentiary;

33 Commander S. Dimitrieff, Chief of the Staff of the Bul-
34 garian Flotilla, Delegate.

35 **Chile:**

36 His Excellency M. Domingo Gana, Envoy Extraordinary
37 and Minister Plenipotentiary at London, Delegate Pleni-
38 potentiary;

1 His Excellency M. Augusto Matte, Envoy Extraordinary
2 and Minister Plenipotentiary at Berlin, Delegate Pleni
3 potentiary;

4 His Excellency M. Carlos Concha, ex-Minister of War,
5 ex-President of the Chamber of Deputies, ex-Envoy
6 Extraordinary and Minister Plenipotentiary at Buenos
7 Ayres, Delegate Plenipotentiary.

8 China:

9 His Excellency Mr. Lu Tsêng-Tsiang, Ambassador Extraor-
10 dinary, Delegate Plenipotentiary;

11 His Excellency the Honourable John W. Foster, ex-Secre-
12 tary of State at the United States' Department for
13 Foreign Affairs, Delegate Plenipotentiary;

14 His Excellency Mr. Tsien-Sun, Envoy Extraordinary and
15 Minister Plenipotentiary at The Hague, Delegate Pleni-
16 potentiary;

17 Colonel W. S. Y. Tinge, Judge Advocate-General at the
18 War Office, Military Delegate;

19 Mr. Chang Ching Tong, Secretary of Legation, Assistant
20 Delegate;

21 Mr. Chao-Hi-Chiu, ex-Secretary of the Imperial Chinese Mis-
22 sion and Legation at Paris and Rome, Assistant Delegate.

23 Colombia:

24 General Jorge Holguin, Delegate Plenipotentiary;

25 M. Santiago Perez Triana, Delegate Plenipotentiary;

26 His Excellency General M. Vargas, Envoy Extraordinary
27 and Minister Plenipotentiary at Paris, Delegate Pleni-
28 potentiary.

29 The Republic of Cuba:

30 M. Antonio Sanchez de Bustamante, Professor of Interna-
31 tional Law at the University of Havana, Senator of the
32 Republic, Delegate Plenipotentiary;

33 His Excellency M. Gonzalo de Quesada y Arostégui, Envoy
34 Extraordinary and Minister Plenipotentiary at Washing-
35 ton, Delegate Plenipotentiary;

36 M. Manuel Sanguily, ex-Director of the Institute of Second-
37 ary Education at Havana, Senator of the Republic, Dele-
38 gate Plenipotentiary.

1 Denmark:

2 His Excellency M. C. Brun, Envoy Extraordinary and Minister Plenipotentiary at Washington, First Delegate Plenipotentiary;

3 Rear-Admiral C. F. Scheller Second Delegate Plenipotentiary;

4 M. A. Vedel, Chamberlain, Head of Department at the Royal Ministry for Foreign Affairs, Third Delegate Plenipotentiary.

10 The Dominican Republic:

11 M. Francisco Henriquez i Carvajal, ex-Minister for Foreign Affairs, Member of the Permanent Court of Arbitration, Delegate Plenipotentiary;

12 M. Apolinar Tejera, Rector of the Professional Institute of Santo Domingo, Member of the Permanent Court of Arbitration, Delegate Plenipotentiary.

17 The Republic of the Ecuador:

18 His Excellency M. Victor Rendón, Envoy Extraordinary and Minister Plenipotentiary at Paris and Madrid, Delegate Plenipotentiary;

19 M. Enrique Dorn y de Alsua, Chargé d'Affaires, Delegate Plenipotentiary.

23 Spain:

24 His Excellency M. W. R. De Villa-Urrutia, Senator, ex-Minister for Foreign Affairs, Ambassador Extraordinary and Plenipotentiary at London, First Delegate Plenipotentiary;

25 His Excellency M. José de la Rica y Calvo, Envoy Extraordinary and Minister Plenipotentiary at The Hague, Delegate Plenipotentiary;

26 M. Gabriel Maura y Gamazo, Count de la Mortera, Deputy to the Cortes, Delegate Plenipotentiary;

27 M. J. Jofre Montojo, Colonel on the Staff, Aide-de-camp to the Minister of War, Assistant Military Delegate;

28 Captain Francisco Chacon, Assistant Naval Delegate.

36 France:

37 His Excellency M. Léon Bourgeois, Ambassador Extraordinary, Senator, ex-President of the Council, ex-Minister

- 1 for Foreign Affairs, Member of the Permanent Court of
2 Arbitration, Delegate, First Plenipotentiary;
3 Baron d'Estournelles de Constant, Senator, Minister Pleni-
4 potentiary of the First Class, Member of the Permanent
5 Court of Arbitration, Delegate, Second Plenipotentiary;
6 M. Louis Renault, Professor at the Faculty of Law at Paris,
7 Honorary Minister Plenipotentiary, Legal Adviser to the
8 Ministry for Foreign Affairs, Member of the Institute,
9 Member of the Permanent Court of Arbitration, Delegate,
10 Third Plenipotentiary;
11 His Excellency M. Marcellin Pellet, Envoy Extraordinary
12 and Minister Plenipotentiary at The Hague, Delegate,
13 Fourth Plenipotentiary;
14 General of Division Amourel, Military Delegate;
15 Rear-Admiral Arago, Naval Delegate;
16 M. Fromageot, Advocate at the Court of Appeal at Paris,
17 Technical Delegate;
18 Captain Lacaze, Second Naval Delegate;
19 Lieutenant-Colonel Siben, Military Attaché at Brussels and
20 The Hague, Second Military Delegate.
- 21 **Great Britain:**
22 His Excellency the Right Honourable Sir Edward Fry,
23 G.C.B., Member of the Privy Council, Ambassador Extraor-
24 dinary, Member of the Permanent Court of Arbitration,
25 Delegate Plenipotentiary;
26 His Excellency the Right Honorable Sir Ernest Mason
27 Satow, G.C.M.G., Member of the Privy Council, Member
28 of the Permanent Court of Arbitration, Delegate Pleni-
29 potentiary;
30 His Excellency the Right Honorable Lord Reay, G.C.S.I.,
31 G.C.I.E., Member of the Privy Council, ex-President of the
32 Institute of International Law, Delegate Plenipotentiary.
33 His Excellency Sir Henry Howard, K.C.M.G., C.B., Envoy
34 Extraordinary and Minister Plenipotentiary at The Hague
35 Delegate Plenipotentiary;
36 Lieutenant-General Sir Edmond R. Elles, G.C.I.E., K.C.B.,
37 Military Delegate;
38 Captain C. L. Ottley, M.V.O., R.N., A.D.C., Naval Delegate;

- 1 Mr. Eyre Crowe, Councillor of Embassy, Technical Delegate,
2 First Secretary to the delegation;
3 Mr. Cecil Hurst, Councillor of Embassy, Technical Delegate
4 Legal Adviser to the delegation;
5 Lieutenant-Colonel the Honourable Henry Yarde-Buller,
6 D.S.O., Military Attaché at The Hague, Technical Dele-
7 gate;
8 Commander J. R. Segrave, R.N., Technical Delegate;
9 Major George K. Cockerill, General Staff, Technical Delegate.

10 Greece:

- 11 His Excellency M. Cléon Rizo Rangabé, Envoy Extraordi-
12 nary and Minister Plenipotentiary at Berlin, First Dele-
13 gate Plenipotentiary;
14 M. Georges Streit, Professor of International Law at the
15 University of Athens, Member of the Permanent Court of
16 Arbitration, Second Delegate Plenipotentiary;
17 Colonel of Artillery C. Sapountzakis, Chief of the General
18 Staff, Technical Delegate.

19 Guatemala:

- 20 M. José Tible Machado, Chargé d'Affaires at The Hague and
21 London, Member of the Permanent Court of Arbitration,
22 Delegate Plenipotentiary;
23 M. Enrique Gomez Carrillo, Chargé d'Affaires at Berlin,
24 Delegate Plenipotentiary.

25 The Republic of Haiti:

- 26 His Excellency M. Jean Joseph Dalbémar, Envoy Extraor-
27 dinary and Minister Plenipotentiary at Paris, Delegate
28 Plenipotentiary;
29 His Excellency M. J. N. Léger, Envoy Extraordinary and
30 Minister Plenipotentiary at Washington, Delegate Pleni-
31 potentiary;
32 M. Pierre Hudicourt, ex-Professor of International Public
33 Law, Advocate at the Bar of Port-au-Prince, Delegate
34 Plenipotentiary.

35 Italy:

- 36 His Excellency Count Joseph Tornielli Brusati di Vergano,
37 Senator of the Kingdom, Ambassador of His Majesty the
38 King at Paris, Member of the Permanent Court of Arbi-

- 1 tration, President of the Italian delegation, Delegate
2 Plenipotentiary;
3 His Excellency M. Guido Pompilj, Parliamentary Deputy,
4 Under-Secretary of State at the Royal Ministry for For-
5 eign Affairs, Delegate Plenipotentiary;
6 M. Guido Fusinato, Councillor of State, Parliamentary
7 Deputy, ex-Minister of Education, Delegate Plenipoten-
8 tiary;
9 M. Marius Nicolis de Robilant, General of Brigade, Technical
10 Delegate;
11 M. François Castiglia, Captain in the Navy, Technical Dele-
12 gate.
13 Japan:
14 His Excellency Mr. Keiroku Tsudzuki, Ambassador Extra-
15 ordinary and Plenipotentiary, First Delegate Plenipoten-
16 tiary;
17 His Excellency Mr. Aimaro Sato, Envoy Extraordinary and
18 Minister Plenipotentiary at The Hague, Second Delegate
19 Plenipotentiary;
20 Mr. Henry Willard Denison, Legal Adviser to the Imperial
21 Ministry for Foreign Affairs, Member of the Permanent
22 Court of Arbitration, Technical Delegate;
23 Major-General Yoshifuru Akiyama, Inspector of Cavalry,
24 Technical Delegate;
25 Rear-Admiral Hayao Shimamura, President of the Naval
26 College at Etajima, Technical Delegate.
27 Luxemburg:
28 His Excellency M. Eyschen, Minister of State, President of
29 the Grand-Ducal Government, Delegate Plenipotentiary;
30 Count de Villiers, Chargé d'Affaires at Berlin, Delegate
31 Plenipotentiary.
32 Mexico:
33 His Excellency M. Gonzalo A. Esteva, Envoy Extraordinary
34 and Minister Plenipotentiary at Rome, First Delegate
35 Plenipotentiary;
36 His Excellency M. Sebastian B. de Mier, Envoy Extraordi-
37 nary and Minister Plenipotentiary at Paris, Second Dele-
38 gate Plenipotentiary;

1 His Excellency M. Francisco L. de la Barra, Envoy Extraor-
2 dinary and Minister Plenipotentiary at Brussels and at The
3 Hague, Third Delegate Plenipotentiary.

4 Montenegro:

5 His Excellency M. Nélidow, Privy Councillor, Russian
6 Ambassador at Paris, Delegate Plenipotentiary;

7 His Excellency M. de Martens, Privy Councillor, Permanent
8 Member of the Council of the Imperial Russian Ministry
9 for Foreign Affairs, Delegate Plenipotentiary;

10 His Excellency M. Tcharykow, Councillor of State, Chamber-
11 lain, Envoy Extraordinary and Minister Plenipotentiary
12 of Russia at The Hague, Delegate Plenipotentiary.

13 Nicaragua:

14 His Excellency M. Crisanto Medina, Envoy Extraordinary
15 and Minister Plenipotentiary at Paris, Delegate Plenipo-
16 tentiary.

17 Norway:

18 His Excellency M. Francis Hagerup, ex-President of the
19 Council, ex-Professor of Law, Member of the Permanent
20 Court of Arbitration, Envoy Extraordinary and Minister
21 Plenipotentiary at The Hague and Copenhagen, Delegate
22 Plenipotentiary;

23 M. Joachim Grieg, Shipowner and Deputy, Technical Dele-
24 gate.

25 M. Christian Lous Lange, Secretary to the Nobel Committee
26 of the Norwegian Storthing, Technical Delegate.

27 Panamá:

28 M. Belisario Porras, Delegate Plenipotentiary.

29 Paraguay:

30 His Excellency M. Eusebio Machain, Envoy Extraordinary
31 and Minister Plenipotentiary at Paris, Delegate Plenipo-
32 tentiary.

33 The Netherlands:

34 M. W. H. de Beaufort, ex-Minister for Foreign Affairs, Mem-
35 ber of the Second Chamber of the States-General, Delegate
36 Plenipotentiary;

37 His Excellency M. T. M. C. Asser, Minister of State, Member
38 of the Council of State, Member of the Permanent Court
39 of Arbitration, Delegate Plenipotentiary;

- 1 His Excellency Jonkheer J. C. C. Den Beer Poortugael,
2 Lieutenant-General on the retired list, ex-Minister of War,
3 Member of the Council of State, Delegate Plenipotentiary;
4 His Excellency Jonkheer J. A. Röell, Aide-de-camp to Her
5 Majesty the Queen in Extraordinary Service, Vice-
6 Admiral on the retired list, ex-Minister of Marine, Dele-
7 gate Plenipotentiary;
8 M. J. A. Loeff, ex-Minister of Justice, Member of the Second
9 Chamber of the States-General, Delegate Plenipotentiary;
10 M. H. L. van Oordt, Lieutenant-Colonel on the Staff, Pro-
11 fessor at the Higher Military College, Technical Delegate;
12 M. Jonkheer W. J. M. van Eysinga, Head of the Political
13 Section at the Ministry for Foreign Affairs, Assistant Dele-
14 gate;
15 M. Jonkheer H. A. van Karnebeek, Gentleman of the
16 Chamber, Assistant Head of Department at the Colonial
17 Office, Assistant Delegate;
18 M. H. G. Surie, Naval Lieutenant of the First Class, Tech-
19 nical Delegate.
- 20 Peru:
21 His Excellency M. Carlos G. Candamo, Envoy Extraor-
22 dinary and Minister Plenipotentiary at Paris and
23 London, Member of the Permanent Court of Arbitration,
24 Delegate Plenipotentiary;
25 M. Gustavo de la Fuente, First Secretary of Legation at
26 Paris, Assistant Delegate.
- 27 Persia:
28 His Excellency Samad Khan Momtas-es-Saltaneh, Envoy
29 Extraordinary and Minister Plenipotentiary at Paris,
30 Member of the Permanent Court of Arbitration, Dele-
31 gate, First Plenipotentiary;
32 His Excellency Mirza Ahmed Khan Sadig-ul-Mulkh, Envoy
33 Extraordinary and Minister Plenipotentiary at The
34 Hague, Delegate Plenipotentiary;
35 M. Hennebicq, Legal Adviser to the Minister for Foreign
36 Affairs at Tehran, Technical Delegate.
- 37 Portugal:
38 His Excellency the Marquis de Soveral, Councillor of State,
39 Peer of the Realm, ex-Minister for Foreign Affairs, Envoy

- 1 Extraordinary and Minister Plenipotentiary at London,
2 Ambassador Extraordinary and Plenipotentiary, Dele-
3 gate Plenipotentiary;
4 His Excellency Count de Sélir, Envoy Extraordinary and
5 Minister Plenipotentiary at The Hague, Delegate Pleni-
6 potentiary;
7 His Excellency M. Alberto d'Oliveira, Envoy Extraordinary
8 and Minister Plenipotentiary at Berne, Delegate Pleni-
9 potentiary;
10 Lieutenant-Colonel Thomaz Antonio Garcia Rosado, Gen-
11 eral Staff, Technical Delegate;
12 M. Guilherme Ivens Ferraz, Lieutenant-Commander in the
13 Navy, Technical Delegate.
- 14 Roumania:
15 His Excellency M. Alexandre Beldiman, Envoy Extraor-
16 dinary and Minister Plenipotentiary at Berlin, First
17 Delegate Plenipotentiary;
18 His Excellency M. Edgard Mavrocordato, Envoy Extra-
19 ordinary and Minister Plenipotentiary at The Hague,
20 Second Delegate Plenipotentiary;
21 Captain Alexander Sturdza, General Staff, Technical Dele-
22 gate.
- 23 Russia:
24 His Excellency M. Nélidow, Privy Councillor, Russian
25 Ambassador at Paris, Delegate Plenipotentiary;
26 His Excellency M. de Martens, Privy Councillor, Perma-
27 nent Member of the Council of the Imperial Ministry for
28 Foreign Affairs, Member of the Permanent Court of
29 Arbitration, Delegate Plenipotentiary;
30 His Excellency M. Tcharykow, Councillor of State, Cham-
31 berlain, Envoy Extraordinary and Minister Plenipoten-
32 tiary at The Hague, Delegate Plenipotentiary;
33 M. Prozor, Councillor of State, Chamberlain, Russian Min-
34 ister at Rio de Janeiro, Technical Delegate;
35 Major-General Yermolow, Military Attaché at London,
36 Technical Delegate;
37 Colonel Michelson, Military Attaché at Berlin, Technical
38 Delegate;

1 Captain Behr, Naval Attaché at London, Technical
2 Delegate;
3 Colonel Ovtchinnikow, of the Admiralty, Professor of
4 International Law at the Naval Academy, Technical
5 Delegate.

6 Salvador:

7 M. Pedro J. Matheu, Chargé d'Affaires at Paris, Member of
8 the Permanent Court of Arbitration, Delegate Plenipo-
9 tentiary;

10 M. Santiago Perez Triana, Chargé d'Affaires at London,
11 Member of the Permanent Court of Arbitration, Dele-
12 gate Plenipotentiary.

13 Servia:

14 His Excellency General Sava Grouitch, President of the
15 Council of State, Delegate Plenipotentiary;

16 His Excellency M. Milovan Milovanovitch, Envoy Extraor-
17 dinary and Minister Plenipotentiary at Rome, Member of
18 the Permanent Court of Arbitration, Delegate Plenipo-
19 tentiary;

20 His Excellency M. Michel Militchévitch, Envoy Extraor-
21 dinary and Minister Plenipotentiary at London and The
22 Hague, Delegate Plenipotentiary.

23 Siam:

24 Major-General Mom Chatidej Udom, Delegate Plenipoten-
25 tiary;

26 M. Corragioni d'Orelli, Councillor of Legation at Paris,
27 Delegate Plenipotentiary;

28 Captain Luang Bhuvanarth Narübal. Delegate Plenipo-
29 tentiary.

30 Sweden:

31 His Excellency M. Knut Hjalmar Leonard de Hammarsk-
32 jöld, Envoy Extraordinary and Minister Plenipotentiary
33 at Copenhagen, ex-Minister of Justice, Member of the
34 Permanent Court of Arbitration, First Delegate Pleni-
35 potentiary;

36 M. Johannes Hellner, ex-Minister without Portfolio, ex-
37 Member of the Supreme Court of Sweden, Member of the
38 Permanent Court of Arbitration, Second Delegate Pleni-
39 potentiary;

Colonel David Hedengren, Commanding a Regiment of Artillery, Technical Delegate;

Commander Gustaf de Klint, Head of a Section on the Staff of the Royal Navy, Technical Delegate.

Switzerland:

His Excellency M. Gaston Carlin, Envoy Extraordinary and Minister Plenipotentiary at London and The Hague, Delegate Plenipotentiary;

M. Eugène Borel, Colonel on the General Staff, Professor at the University of Geneva, Delegate Plenipotentiary;

M. Max Huber, Professor of Law at the University of Zurich, Delegate Plenipotentiary.

Turkey:

His Excellency Turkhan Pasha, Ambassador Extraordinary, Minister of the Evkaf, First Delegate Plenipotentiary;

His Excellency Rechid Bey, Turkish Ambassador at Rome, Delegate Plenipotentiary;

His Excellency Vice-Admiral Mehemmed Pasha, Delegate Plenipotentiary;

Raif Bey, Legal Adviser on the Civil List, Assistant Delegate; Colonel on the Staff Mehemmed Said Bey, Assistant Delegate.

Uruguay:

M. José Batlle y Ordóñez, ex-President of the Republic, Member of the Permanent Court of Arbitration, First Delegate Plenipotentiary;

His Excellency M. Juan P. Castro, ex-President of the Senate, Envoy Extraordinary and Minister Plenipotentiary at Paris, Member of the Permanent Court of Arbitration, Delegate Plenipotentiary;

Colonel Sebastian Buquet, Commanding a Regiment of Field Artillery, Technical Delegate.

The United States of Venezuela:

M. José Gil Fortoul, Chargé d'Affaires at Berlin, Delegate Plenipotentiary.

At a series of meetings, held from the 15th June to the 18th October, 1907, in which the above Delegates were throughout animated by the desire to realize, in the fullest possible measure,

1 the generous views of the august initiator of the Conference and
2 the intentions of their Governments, the Conference drew up for
3 submission for signature by the Plenipotentiaries, the text of the
4 Conventions and of the Declaration enumerated below and
5 annexed to the present Act:—

- 6 1. Convention for the Pacific Settlement of International
7 Disputes.
- 8 2. Convention respecting the Limitation of the Employ-
9 ment of Force for the Recovery of Contract Debts.
- 10 3. Convention relative to the Opening of Hostilities.
- 11 4. Convention respecting the Laws and Customs of War
12 on Land.
- 13 5. Convention respecting the Rights and Duties of Neu-
14 tral Powers and Persons in case of War on Land.
- 15 6. Convention relative to the Status of Enemy Mer-
16 chant-ships at the Outbreak of Hostilities.
- 17 7. Convention relative to the Conversion of Merchant-
18 ships into War-ships.
- 19 8. Convention relative to the Laying of Automatic Sub-
20 marine Contact Mines.
- 21 9. Convention respecting Bombardment by Naval Forces
22 in Time of War.
- 23 10. Convention for the Adaptation to Naval War of the
24 Principles of the Geneva Convention.
- 25 11. Convention relative to certain Restrictions with regard
26 to the Exercise of the Right of Capture in Naval
27 War.
- 28 12. Convention relative to the creation of an International
29 Prize Court.
- 30 13. Convention concerning the Rights and Duties of Neu-
31 tral Powers in Naval War.
- 32 14. Declaration prohibiting the discharge of Projectiles
33 and Explosives from Balloons.

34 These Conventions and Declaration shall form so many
35 separate Acts. These Acts shall be dated this day, and may
36 be signed up to the 30th June, 1908, at The Hague, by the
37 Plenipotentiaries of the Powers represented at the Second
38 Peace Conference.

1 The Conference, actuated by the spirit of mutual agreement
2 and concession characterizing its deliberations, has agreed
3 upon the following Declaration, which, while reserving to each
4 of the Powers represented full liberty of action as regards
5 voting, enables them to affirm the principles which they regard
6 as unanimously admitted:—

7 It is unanimous—

8 1. In admitting the principle of compulsory arbitration.

9 2. In declaring that certain disputes, in particular those
10 relating to the interpretation and application of the
11 provisions of International Agreements, may be sub-
12 mitted to compulsory arbitration without any restric-
13 tion.

14 Finally, it is unanimous in proclaiming that, although it
15 has not yet been found feasible to conclude a Convention in
16 this sense, nevertheless the divergences of opinion which hav-
17 come to light have not exceeded the bounds of judicial con-
18 troversy, and that, by working together here during the past
19 four months, the collected Powers not only have learnt to
20 understand one another and to draw closer together, but have
21 succeeded in the course of this long collaboration in evolving
22 a very lofty conception of the common welfare of humanity.

23 The Conference has further unanimously adopted the follow-
24 ing Resolution:—

25 The Second Peace Conference confirms the Resolution adopted
26 by the Conference of 1899 in regard to the limitation of military
27 expenditure; and inasmuch as military expenditure has con-
28 siderably increased in almost every country since that time,
29 the Conference declares that it is eminently desirable that the
30 Governments should resume the serious examination of this
31 question.

32 It has besides expressed the following opinions:—

33 1. The Conference calls the attention of the Signatory
34 Powers to the advisability of adopting the annexed
35 draft Convention for the creation of a Judicial Arbi-
36 tration Court, and of bringing it into force as soon
37 as an agreement has been reached respecting the
38 selection of the Judges and the constitution of the Court.

- 1 2. The Conference expresses the opinion that, in case of
2 war, the responsible authorities, civil as well as mili-
3 tary, should make it their special duty to ensure and
4 safeguard the maintenance of pacific relations, more
5 especially of the commercial and industrial relations
6 between the inhabitants of the belligerent States and
7 neutral countries.
- 8 3. The Conference expresses the opinion that the Powers
9 should regulate, by special Treaties, the position,
10 as regards military charges, of foreigners residing
11 within their territories.
- 12 4. The Conference expresses the opinion that the preparation
13 of regulations relative to the laws and customs of naval
14 war should figure in the programme of the next Con-
15 ference, and that in any case the Powers may apply,
16 as far as possible, to war by sea the principles of the
17 Convention relative to the Laws and Customs of War
18 on land.
- 19 Finally, the Conference recommends to the Powers the
20 assembly of a Third Peace Conference, which might be held
21 within a period corresponding to that which has elapsed since
22 the preceding Conference, at a date to be fixed by common
23 agreement between the Powers, and it calls their attention to
24 the necessity of preparing the programme of this Third Con-
25 ference a sufficient time in advance to ensure its deliberations
26 being conducted with the necessary authority and expedition.
- 27 In order to attain this object the Conference considers that
28 it would be very desirable that, some two years before the
29 probable date of the meeting, a preparatory Committee should
30 be charged by the Governments with the task of collecting the
31 various proposals to be submitted to the Conference, of ascer-
32 taining what subjects are ripe for embodiment in an Interna-
33 tional Regulation, and of preparing a programme which the
34 Governments should decide upon in sufficient time to enable
35 it to be carefully examined by the countries interested. This
36 Committee should further be intrusted with the task of pro-
37 posing a system of organization and procedure for the Con-
38 ference itself.

1 In faith whereof the Plenipotentiaries have signed the present
2 Act and have affixed their seals thereto.*

3 Done at The Hague, the 18th October, 1907, in a single copy,
4 which shall remain deposited in the archives of the Netherland
5 Government, and duly certified copies of which shall be sent
6 to all the Powers represented at the Conference.

1 ANNEX TO THE FIRST OPINION EXPRESSED BY THE SECOND
2 PEACE CONFERENCE.

3 *Draft Convention relative to the Creation of a Judicial Arbitration*
4 *Court.*

5 PART I.—*Constitution of the Judicial Arbitration Court.*

6 ARTICLE I.

7 With a view to promoting the cause of arbitration, the Con-
8 tracting Powers agree to constitute, without altering the status
9 of the Permanent Court of Arbitration, a Judicial Arbitration
10 Court, of free and easy access, composed of Judges representing
11 the various juridical systems of the world, and capable of insuring
12 continuity in jurisprudence of arbitration.

13 ARTICLE II.

14 The Judicial Arbitration Court is composed of Judges and
15 Deputy Judges chosen from persons of the highest moral reputa-
16 tion, and all fulfilling conditions qualifying them, in their respec-
17 tive countries, to occupy high legal posts, or be jurists of recog-
18 nized competence in matters of international law.

19 The Judges and Deputy Judges of the Court are appointed, as
20 far as possible, from the members of the Permanent Court of
21 Arbitration. The appointment shall be made within the six
22 months following the ratification of the present Convention.

23 ARTICLE III.

24 The Judges and Deputy Judges are appointed for a period of
25 twelve years, counting from the date on which the appointment
26 is notified to the Administrative Council created by the Conven-
27 tion for the Pacific Settlement of International Disputes. Their
28 appointments can be renewed.

29 Should a Judge or Deputy Judge die or retire, the vacancy is
30 filled in the manner in which his appointment was made. In
31 this case, the appointment is made for a fresh period of twelve
32 years.

ARTICLE IV.

The Judges of the Judicial Arbitration Court are equal and rank according to the date on which their appointment was notified. The Judge who is senior in point of age takes precedence when the date of notification is the same.

The Deputy Judges are assimilated, in the exercise of their functions, with the Judges. They rank, however, below the latter.

ARTICLE V.

The Judges enjoy diplomatic privileges and immunities in the exercise of their functions, outside their own country.

Before taking their seat, the Judges and Deputy Judges must swear, before the Administrative Council, or make a solemn affirmation to exercise their functions impartially and conscientiously.

ARTICLE VI.

The Court annually nominates three Judges to form a special delegation and three more to replace them should the necessity arise. They may be re-elected. They are balloted for. The persons who secure the largest number of votes are considered elected. The delegation itself elects its President, who, in default of a majority, is appointed by lot.

A member of the delegation cannot exercise his duties when the Power which appointed him, or of which he is a national, is one of the parties.

The members of the delegation are to conclude all matters submitted to them, even if the period for which they have been appointed Judges has expired.

ARTICLE VII.

A Judge may not exercise his judicial functions in any case in which he has, in any way whatever, taken part in the decision of a National Tribunal, of a Tribunal of Arbitration, or of a Commission of Inquiry, or has figured in the suit as counsel or advocate for one of the parties.

A Judge cannot act as agent or advocate before the Judicial Arbitration Court or the Permanent Court of Arbitration, before a Special Tribunal of Arbitration or a Commission of Inquiry, nor act for one of the parties in any capacity whatsoever so long as his appointment lasts.

1 ARTICLE VIII.

2 The Court elects its President and Vice-President by an
3 absolute majority of the votes cast. After two ballots, the
4 election is made by a bare majority and, in case the votes are
5 even, by lot.

6 ARTICLE IX.

7 The Judges of the Judicial Arbitration Court receive an
8 annual salary of 6,000 Netherland florins. This salary is paid
9 at the end of each half-year, reckoned from the date on which
10 the Court meets for the first time.

11 In the exercise of their duties during the sessions or in the
12 special cases covered by the present Convention, they receive
13 the sum of 100 florins per diem. They are further entitled to
14 receive a travelling allowance fixed in accordance with Regu-
15 lations existing in their own country. The provisions of the
16 present paragraph are applicable also to a Deputy Judge when
17 acting for a Judge.

18 These emoluments are included in the general expenses of
19 the Court dealt with in Article XXXI, and are paid through
20 the International Bureau created by the Convention for the
21 Pacific Settlement of International Disputes.

22 ARTICLE X.

23 The Judges may not accept from their own Government or
24 from that of any other Power any remuneration for services
25 connected with their duties in their capacity of members of
26 the Court.

27 ARTICLE XI.

28 The seat of the Judicial Court of Arbitration is at The
29 Hague, and cannot be transferred, unless absolutely obliged
30 by circumstances, elsewhere.

31 The delegation may choose, with the assent of the parties
32 concerned, another site for its meetings, if special circumstances
33 render such a step necessary.

34 ARTICLE XII.

35 The Administrative Council fulfils with regard to the Judicial
36 Court of Arbitration the same functions as to the Permanent
37 Court of Arbitration.

1 ARTICLE XIII.

2 The International Bureau acts as registry to the Judicial
3 Court of Arbitration, and must place its offices and staff at the
4 disposal of the Court. It has charge of the archives and carries
5 out the administrative work.

6 The Secretary-General of the Bureau discharges the func-
7 tions of Registrar.

8 The necessary secretaries to assist the Registrar, translat-
9 ors and shorthand writers are appointed and sworn in by the
10 Court.

11 ARTICLE XIV.

12 The Court meets in session once a year. The session opens
13 the third Wednesday in June and lasts until all the business
14 on the agenda has been transacted.

15 The Court does not meet in session if the delegation con-
16 siders that such meeting is unnecessary. However, when a
17 Power is party in a case actually pending before the Court,
18 the pleadings in which are closed, or about to be closed, it
19 may insist that the session should be held.

20 When necessary, the delegation may summon the Court
21 in extraordinary session.

22 ARTICLE XV.

23 A Report of the doings of the Court shall be drawn up every
24 year by the delegation. This Report shall be forwarded to
25 the Contracting Powers through the International Bureau.
26 It shall also be communicated to the Judges and Deputy Judges
27 of the Court.

28 ARTICLE XVI.

29 The Judges and Deputy Judges, members of the Judicial
30 Arbitration Court, can also exercise the functions of Judge
31 and Deputy Judge in the International Prize Court.

32 PART II.—*Competency and Procedure.*

33 ARTICLE XVII.

34 The Judicial Court of Arbitration is competent to deal with
35 all cases submitted to it, in virtue either of a general under-
36 taking to have recourse to arbitration or of a special agreement.

ARTICLE XVIII.

The delegation is competent—

1. To decide the arbitrations referred to in the preceding Article, if the parties concerned are agreed that the summary procedure, laid down in Part IV, Chapter IV, of the Convention for the Pacific Settlement of International Disputes is to be applied;
2. To hold an inquiry under and in accordance with Part III of the said Convention, in so far as the delegation is intrusted with such inquiry by the parties acting in common agreement. With the assent of the parties concerned, and as an exception to Article VII, paragraph 1, the members of the delegation who have taken part in the inquiry may sit as Judges, if the case in dispute is submitted to the arbitration of the Court or of the delegation itself.

ARTICLE XIX.

The delegation is also competent to settle the *Compromis* referred to in Article LII of the Convention for the Pacific Settlement of International Disputes if the parties are agreed to leave it to the Court.

It is equally competent to do so, even when the request is only made by one of the parties concerned, if all attempts have failed to reach an understanding through the diplomatic channel, in the case of—

1. A dispute covered by a general Treaty of Arbitration concluded or renewed after the present Convention has come into force, providing for a *Compromis* in all disputes, and not either explicitly or implicitly excluding the settlement of the *Compromis* from the competence of the delegation. Recourse cannot, however, be had to the Court if the other party declares that in its opinion the dispute does not belong to the category of questions to be submitted to compulsory arbitration, unless the Treaty of Arbitration confers upon the Arbitration Tribunal the power of deciding this preliminary question.
2. A dispute arising from contract debts claimed from one Power by another Power as due to its nationals, and

1 for the settlement of which the offer of arbitration has
2 been accepted. This arrangement is not applicable if
3 acceptance is subject to the condition that the *Com-*
4 *promis* should be settled in some other way.

5 ARTICLE XX.

6 Each of the parties concerned may nominate a Judge of the
7 Court to take part, with power to vote, in the examination of the
8 case submitted to the delegation.

9 If the delegation acts as a Commission of Enquiry, this task
10 may be intrusted to persons other than the Judges of the Court.
11 The travelling expenses and remuneration to be given to the said
12 persons are fixed and borne by the Powers appointing them.

13 ARTICLE XXI.

14 The Contracting Powers only may have access to the Judicial
15 Arbitration Court set up by the present Convention.

16 ARTICLE XXII.

17 The Judicial Court of Arbitration follows the rules of proce-
18 dure laid down in the Convention for the Pacific Settlement of
19 International Disputes, except in so far as the procedure is laid
20 down in the present Convention.

21 ARTICLE XXIII.

22 The Court determines what language it will itself use and what
23 languages may be used before it.

24 ARTICLE XXIV.

25 The International Bureau serves as channel for all communi-
26 cations to be made to the Judges during the interchange of
27 pleadings provided for in Article LXIII, paragraph 2, of the
28 Convention for the Pacific Settlement of International Disputes.

29 ARTICLE XXV.

30 For all notices to be served, in particular on the parties,
31 witnesses, or experts, the Court may apply direct to the Govern-
32 ment of the State on whose territory the service is to be carried
33 out. The same rule applies in the case of steps being taken to
34 procure evidence.

35 The requests addressed for this purpose can only be rejected
36 when the Power applied to considers them likely to impair its
37 sovereign rights or its safety. If the request is complied with,

1 the fees charged must only comprise the expenses actually
2 incurred.

3 The Court is equally entitled to act through the Power on
4 whose territory it sits.

5 Notices to be given to parties in the place where the Court sits
6 may be served through the International Bureau.

7 ARTICLE XXVI.

8 The discussions are under the control of the President or Vice-
9 President, or, in case they are absent or cannot act, of the senior
10 Judge present.

11 The Judge appointed by one of the parties cannot preside.

12 ARTICLE XXVII.

13 The Court considers its decisions in private, and the proceed-
14 ings are secret.

15 All decisions are arrived at by a majority of the Judges present.
16 If the number of Judges is even and equally divided, the vote of
17 the junior Judge, in the order of precedence laid down in Article
18 IV, paragraph 1, is not counted.

19 ARTICLE XXVIII.

20 The judgment of the Court must give the reasons on which it
21 is based. It contains the names of the Judges taking part in it;
22 it is signed by the President and Registrar.

23 ARTICLE XXIX.

24 Each party pays its own costs and an equal share of the costs
25 of the trial.

26 ARTICLE XXX.

27 The provisions of Articles XXI to XXIX are applicable by
28 analogy to the procedure before the delegation.

29 When the right of attaching a member to the delegation has
30 been exercised by one of the parties only, the vote of the member
31 attached is not recorded if the votes are evenly divided.

32 ARTICLE XXXI.

33 The general expenses of the Court are borne by the Contract-
34 ing Powers.

35 The Administrative Council applies to the Powers to obtain
36 the funds requisite for the working of the Court.

ARTICLE XXXII.

The Court itself draws up its own rules of procedure, which must be communicated to the Contracting Powers.

After the ratification of the present Convention the Court shall meet as early as possible in order to elaborate these rules, elect the President and Vice-President, and appoint the members of the delegation.

ARTICLE XXXIII.

The Court may propose modifications in the provisions of the present Convention concerning procedure. These proposals are communicated through the Netherland Government to the Contracting Powers, which will consider together as to the measures to be taken.

PART III.—*Final Provisions.*

ARTICLE XXXIV.

The present Convention shall be ratified as soon as possible.

The ratifications shall be deposited at The Hague.

A *procès-verbal* of the deposit of each ratification shall be drawn up, of which a duly certified copy shall be sent through the diplomatic channel to all the Signatory Powers.

ARTICLE XXXV.

The Convention shall come into force six months after its ratification.

It shall remain in force for twelve years, and shall be tacitly renewed for periods of twelve years, unless denounced.

The denunciation must be notified, at least two years before the expiration of each period, to the Netherland Government, which will inform the other Powers.

The denunciation shall only have effect in regard to the notifying Power. The Convention shall continue in force as far as the other Powers are concerned.

[Executive V, Sixtieth Congress, first session—Confidential.]

SIGNATURES TO THE HAGUE CONVENTIONS OF 1907.

TABLE OF SIGNATURES APPENDED TO THE HAGUE CONFERENCE CONVENTIONS OF 1907, AND ALSO OF THE RESERVATIONS MADE.

FEBRUARY 27, 1908.—Referred to the Committee on Foreign Relations and ordered
to be printed in confidence for the use of the Senate.

Table of Signatures Appended to the Hague Conference

[S=signed. R=reserved.]

	I.		II.		III.		IV.		V.		VI.		VII.	
	Conven- tion for the pac- ific set- tlement of inter- national contro- versies. (Ex. F.)		Conven- tion con- cerning the limitation of the em- ployment of force for the re- covery of contract debts. (Ex. G.)		Conven- tion re- lating to the open- ing of hos- tilities. (Ex. H.)		Conven- tion con- cerning the laws and cus- toms of war on land. (Ex. I.)		Conven- tion con- cerning the rights and duties of neutral powers and persons in case of war on land. (Ex. J.)		Conven- tion re- lating to the treat- ment of hostile merch- ant ves- sels at the beginning of hos- tilities. (Ex. K.)		Conven- tion re- lating to the trans- forma- tion of merch- ant ves- sels into war ves- sels. (Ex. L.)	
1. Germany.....														
2. United States of Amer- ica.....	S	R	S		S		S		S					
3. Argentina.....	S		S	R	S		S		S	R	S		S	
4. Austria-Hungary.....														
5. Belgium.....	S				S		S		S		S		S	
6. Bolivia.....	S		S	R	S		S		S		S		S	
7. Brazil.....	S	R			S		S		S		S		S	
8. Bulgaria.....	S		S		S		S		S		S		S	
9. Chile.....	S	R	S		S		S		S		S		S	
10. China.....														
11. Colombia.....	S		S	R	S		S		S		S		S	
12. Cuba.....	S		S		S		S		S		S		S	
13. Denmark.....	S		S		S		S		S		S		S	
14. Dominican Republic.....	S		S	R	S		S		S		S			
15. Ecuador.....														
16. Spain.....	S		S		S				S		S		S	
17. France.....	S		S		S		S		S		S		S	
18. Great Britain.....														
19. Greece.....	S	R	S	R	S		S		S		S		S	
20. Guatemala.....	S		S	R	S		S		S		S		S	
21. Haiti.....	S		S		S		S		S		S		S	
22. Italy.....														
23. Japan.....														
24. Luxembourg.....	S				S		S		S		S		S	
25. Mexico.....	S		S		S		S		S		S		S	
26. Montenegro.....	S		S		S		S	R	S		S		S	
27. Nicaragua.....														
28. Norway.....	S		S		S		S		S		S		S	
29. Panama.....	S		S		S		S		S		S		S	
30. Paraguay.....														
31. Netherlands.....	S		S		S		S		S		S		S	
32. Peru.....	S		S	R	S		S		S		S		S	

Convention of 1907, and also of the Reservations Made.

[S=signed. R=reserved.]

VIII.	IX.	X.	XI.	XII.	XIII.	XIV.	XV.
Convention relating to the laying of automatic submarine contact mines. (Ex. M.)	Convention concerning the bombardment by naval forces in time of war. (Ex. N.)	Convention for the adaptation of the principles of the Geneva Convention to maritime warfare. (Ex. O.)	Convention relating to certain restrictions in the exercise of the right of capture in maritime war. (Ex. P.)	Convention relative to the establishment of an International Prize Court. (Ex. Q.)	Convention concerning the rights and duties of neutral powers in case of maritime war. (Ex. R.)	Declaration relative to prohibiting the throwing down of projectiles and explosives from balloons. (Ex. S.)	The final act. (Ex. T.)
S	S	S	S	S		S	S
S	S	S	S	S	S	S	S
S	S	S	S	S	S	S	S
S	S	S	S	S	S	S	S
S	S	S	S	S	S	S	S
S	S R	S	S	S R	S	S	S
S	S	S	S	S	S	S	S
S	S	S	S	S R	S	S	S
S	S	S	S	S	S	S	S
S R	S	S	S		S R	S	S
		S	S				S
		S	S	S	S		S
S	S	S	S		S	S	S
S	S	S	S	S R	S		S
S	S	S	S	S R	S	S	S
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S	S	S	S		S	S	S
S	S	S	S	S	S		S
S	S	S			S		S
S	S	S	S	S	S	S	S
S	S	S	S	S	S	S	S
S	S	S	S	S	S	S	S
S	S	S	S	S	S	S	S

RESERVATIONS.

I. America.—Under reservation of the declaration made in the plenary session of the Conference of October 16, 1907.

Brazil.—With reservation as to article 53, paragraphs 2, 3, and 4.

Chile.—Under reservation of the Declaration formulated with regard to article 39 in the seventh session of October 7 of the First Commission.

Greece.—With reservation of paragraph 2 of article 53.

II. Argentina.—The Argentine Republic makes the following reservations:

1. With regard to debts arising from ordinary contracts between the citizen or subject of a nation and a foreign government, recourse shall not be had to arbitration except in the specific case of a denial of justice by the courts of the country where the contract was made, the remedies before which courts must first have been exhausted.
2. Public loans, secured by bond issues and constituting the national debt, shall in no case give rise to military aggression or the material occupation of the soil of American nations.

Bolivia.—With the reservation stated to the First Commission.

Colombia.—Colombia makes the following reservations: She does not agree to the employment of force in any case for the recovery of debts, whatever be their nature. She accepts arbitration only after a final decision has been rendered by the courts of the debtor nations.

Dominican Republic.—With the reservation made at the plenary session of October 16, 1907.

Greece.—With the reservation made at the plenary session of October 16, 1907.

Guatemala.—1. With regard to debts arising from ordinary contracts between the citizens or subjects of a nation and a foreign government, recourse shall be had to arbitration only in case of a denial of justice by the courts of the country where the contract was made, the remedies before which courts must first have been exhausted.

2. Public loans secured by bond issues and constituting national debts shall in no case give rise to military aggression or the material occupation of the soil of American nations.

Peru.—With the reservation that the principles laid down in this Convention shall not be applicable to claims or differences arising from contracts concluded by a country with foreign subjects when it has been expressly stipulated in these contracts that the claims or differences must be submitted to the judges or courts of the country.

- II. Salvador.—We make the same reservations as the Argentine Republic above.
- Uruguay.—Under reservation of the first paragraph of article 1, because the Delegation considers that arbitration may always be refused as a matter of right if the fundamental law of the debtor nation, prior to the contract which has given rise to the doubts or disputes, or this contract itself, has stipulated that such doubts or disputes shall be settled by the courts of the said nation.
- IV. Montenegro.—With the reservations formulated in article 44 of the Regulations annexed to the present Convention and contained in the minutes of the fourth plenary session of August 17, 1907.
- Russia.—With the reservations formulated in article 44 of the Regulations annexed to the present Convention and contained in the minutes of the fourth plenary session of August 17, 1907.
- V. Argentina.—The Argentine Republic makes reservation of article 19.
- VI. Russia.—With the reservations formulated in article 3 and article 4, paragraph 2, of the present Convention, and embodied in the minutes of the seventh plenary session of September 27, 1907.
- VIII. Dominican Republic.—With reservation as to the first paragraph of article 1.
- Siam.—With reservation of article 1, paragraph 1.
- IX. Chile.—With reservation of article 3, formulated during the fourth plenary session of August 17.
- X. Persia.—With reservation of the right, recognized by the Conference, to use the Lion and Red Sun instead of and in the place of the Red Cross.
- XII. Chile.—With reservation of article 15, formulated at the sixth plenary session of September 21.
- Cuba.—With reservation of article 15.
- Guatemala.—With the reservations formulated concerning article 15.
- Haiti.—With the reservation regarding article 15.
- Persia.—With reservation of article 15.
- Salvador.—With reservation of article 15.
- Siam.—With reservation of article 15.
- Uruguay.—With reservation of article 15.
- XIII. Dominican Republic.—With reservation regarding article 12.
- Persia.—With reservation of articles 12, 19, and 21.
- Siam.—With reservation of articles 12, 19, and 23.
- XV. With reservations of Wish No. 1, which the Federal Council did not accept.









